

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 297.

THE UNITED STATES, APPELLANT,

VS.

FREDERICK MAISH AND THOMAS DRISCOLL, PARTNERS  
AS MAISH AND DRISCOLL.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

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1 UNITED STATES OF AMERICA, *Territory of Arizona*, ss:

Be it remembered that heretofore, to wit, on the first day of March, A. D. 1893, Maish & Driscoll, by their attorneys, Charles Weston Wright, esquire, and Rochester Ford, esquire, filed in the office of the clerk of the Court of Private Land Claims, in the city of Tucson, in the Territory of Arizona, a petition, in which said Maish & Driscoll are plaintiffs and the United States et als. is defendant, which said petition is as follows, to wit:

2 In the United States Court of Private Land Claims.

UNITED STATES OF AMERICA, *Territory of Arizona*, ss:

FREDERICK MAISH AND THOMAS DRISCOLL, Partners as Maish & Driscoll, <i>vs.</i> THE UNITED STATES AND THE SANTA CRUZ Water Storage Company, a corporation.	}	No. 6.
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*Petition of Frederick Maish and Thomas Driscoll for the confirmation of their title to the "San Ygnacio de la Canoa" and "Maria Santisima del Carmen," ali's "Buena Vista," private land claims.*

Come now your petitioners, Frederick Maish and Thomas Driscoll, and respectfully represent to this honorable court as follows:

That they are, and since the year 1871 have been, partners residing and doing business in the city of Tucson, Territory of Arizona, under the firm name and style of Maish & Driscoll.

That as such partners they are the owners in fee, holders, and possessors of that certain tract of land lying, being, and situate in the county of Pima, Territory of Arizona, commonly known and described as the "San Ygnacio de la Canoa" grant or private land claim, and of that other certain tract of land lying, being, and situate partly in the county of Pima, Territory of Arizona, and partly in the State of Sonora, Republic of Mexico, commonly known and described as the "Maria Santisima del Carmen," alias "Buena Vista," grant or private land claim, each of which tracts is more particularly hereinafter described.

That they own in fee, hold, and possess such lands under and by virtue of two certain instruments of writing, now and hereafter designated as and being grant titles, bearing dates the 15th day of

3 December, 1821, and the 24th day of October, 1831, respectively, duly made and executed by the Governor Intendente of the provinces of Sonora and Sinaloa, and by and on behalf of the State of Sonora, in the Republic of Mexico, under and by virtue of article 11 of Decree No. 70, passed on the 4th day of August, 1824, by the Sovereign Constituent Congress of the United States of Mexico, which article concedes to the States of the Republic of Mexico the rents or revenues which by said law are not reserved to the General Government, one of which revenues is the vacant lands within the respective States, which lands in consequence belong to such States; for the disposition of which lands under said decree the Constituent Congress of the State of Sonora and

Sinaloa passed a law numbered 30, bearing date the 20th day of May, 1825, and other decrees relative thereto by other successive legislatures, which decrees are embodied in sections three, four, five, six, and seven of chapter nine of the Organic Law of the Treasury, said law being numbered 26, bearing date the 2nd day of July, 1834.

That under and by virtue of such laws and decrees such proceedings were thereunder lawfully and regularly had as that the said Governor Intendente of the provinces of Sonora and Sinaloa, and the Government of the State of Sonora, by its officers, duly authorized by the laws aforesaid, duly and regularly, and for a good and valuable consideration, to wit, the sum of two hundred and fifty dollars, and for other good and valuable consideration in said grant title set forth and described, did, on the said 15th day of December, 1821, sell and convey in fee to Thomas and Ygnacio Ortiz the land hereinbefore mentioned and more particularly hereinafter described, known as the "San Ygnacio de la Canoa" grant, and duly and regularly, and for a good and valuable consideration, to wit, the sum of one hundred and ninety dollars, in the lawful money of the

State, and for other good and valuable considerations in said grant  
4 title set forth and described, did on the said 24th day of October, 1831, sell and convey in fee to Dona Josefa Morales the land hereinbefore mentioned and more particularly hereinafter described, known as the "Maria Santisima del Carmen," alias "Buena Vista," grant.

That the said San Ygnacio de la Canoa grant was instituted by a petition, dated September 6th, 1820, addressed to the Governor Intendente, who was then the officer of the Spanish Government in charge of the public lands in the jurisdiction of Tubac, and that proceedings of survey, valuation, and publication were taken on this petition as required by the instructions and laws of the royal ordinances of intendentes of December 4th, 1786, and on December 15, 1821, the tract petitioned for and as surveyed according to the calls of the expediente thereof was sold to Thomas and Ygnacio Ortiz, the grantees therein, for two hundred and fifty dollars, which amount was thereupon paid by said grantees; that the said sale was, on December 17, 1821, approved by the Provincial Junta de Hacienda, or Provisional Assembly of the National Public Lands, and on the same date was referred to the Supreme Junta of Royal Hacienda for its approval; that prior to its approval by that body the Mexican revolution culminated, and no further proceedings were taken thereon till January 30, 1849, when an order was made by Pico, the treasurer-general of the State of Sonora, for the issuance to said Tomas and Ygnacio Ortiz of the final testimonio or evidence of title of said grant, which was thereupon done, and the same was recorded in the book of toma de razon for said year 1849.

That the said Maria Santisima del Carmen, alias Buena Vista, grant was instituted by a petition, dated September 30, 1826, addressed to Jose Maria Mendoza, treasurer-general of the free, independent, and sovereign State of Sonora; that proceedings of survey, valuation, and publication were taken on this petition, as required by law number 30, of the First Honorable Constituent Congress of the States of Sonora and Sinaloa united, dated May 20, 1825, and as required by the decrees  
5 of successive legislatures, and on September 7th, 1831, at the city or Hermosillo, State of Sonora, Republic of Mexico, the tract



petitioned for and as surveyed according to the calls of the expediente thereof was sold in fee to Dona Josefa Morales, the grantee therein, for the sum of one hundred and ninety dollars, at which the land was valued, which amount was thereupon paid by said grantee, and on October 24, 1831, the said Jose Maria Mendoza, as treasurer-general of the State of Sonora, issued and delivered to said grantee the final testimonio of evidence of title, and the same was recorded on folio 1 of the corresponding book or toma de razon in the archives of said treasurer-general.

That the maps hereto attached and made a part of this petition as Exhibits A and B correctly represent, as near as may be, the lands embraced within the said grants, the boundaries thereof, and where the same are situate.

That the original grant, titles, or instruments of writing by which said grants and each of them were conveyed to the aforesaid grantees, respectively, are not in the possession or under the control of your petitioner, but are, together with other records and papers relating to said grants, in the possession and custody of the United States surveyor-general of the Territory of Arizona, at the city of Tucson; that for this reason the said original documents constituting and creating said grant, together with transcripts or copies thereof, cannot be herewith presented or delivered, nor can copies of said grants be now furnished, as required by the rules of this honorable court, but that when by the order of this court the said original title papers are produced, your petitioners will furnish the necessary and requisite copies of each of said instruments in the Spanish and English languages.

That under the provisions of the eighth section of the act of Congress, approved July 22, 1854, entitled "An act to establish the offices  
6 of surveyor-general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein," and for other purposes, and under acts amendatory or in extension thereof or supplemental thereto, your petitioners filed, on September 2, 1879, in the office of the United States surveyor-general for the Territory of Arizona, their petition, asking for the confirmation to them of said grant of San Ygnacio de la Canoa, accompanying which petition were the original title papers of said grant; that thereupon the United States surveyor-general caused said grant to be investigated by one R. C. Hopkins, a duly authorized and competent agent of the United States, and the said United States surveyor-general, in his official report under date of February 20, 1880, to Congress on said grant, reported that the original expediente of the same containing forty-five pages was found in its proper place and in the archives of Mexico; that the writing was on the corresponding stamped paper; that the signatures of the several papers forming the expediente are genuine; that a registry of said title is found in the entries of the book of Toma de Razon for the year 1849, and that the report of Special Agent Hopkins fully established the genuine character of the original title papers, and the report of the said surveyor-general recommended the confirmation of said grant to your petitioners, but that no action was taken thereon by Congress or by any authorities of the United States.

That under the provisions of the eighth section of the aforesaid act of Congress your petitioners filed on December 10, 1881, in the office of the the United States surveyor-general of the Territory of Arizona, their

petition asking for the confirmation to them of said grant of "Maria Santisima del Carmen," alias "Buena Vista," accompanying which petition were the original title papers of said grant; that thereupon the United States surveyor-general caused said grant to be investigated by the

7        said R. C. Hopkins, a duly authorized and competent agent of the United States, and in his official report under date of January 10, 1882, to Congress on said grant said surveyor-general reported that the original expediente of said grant in the Mexican archives and the record in the Toma de Razon has been critically examined by the said Hopkins and that not the slightest irregularity had been discovered in them, and that all the documents and records had been found to be free of suspicion and bearing every impress of good faith and undoubted genuineness, and said report recommended the confirmation of this grant to your petitioners, but that no action was taken thereof by Congress or by any authorities of the United States.

That the statements in each of said reports of said Hopkins and said United States surveyor-general are true, and that each of said grants is, and at the time of the execution of the treaty known as the Gadsden Treaty was, duly recorded in the archives of Mexico.

That your petitioners own, hold, and possess each of said grants under and by virtue of divers and sundry mesne conveyances made by the original grantees of said grants and their grantees to your petitioners, all of which conveyances are on file and of record in the office of the county recorder of the county of Pima, Territory of Arizona, abstracts whereof your petitioners will furnish to this court at such times and upon such terms as the court may direct.

That the original grantees of each of said grants were Mexicans and citizens of the Republic of Mexico, and at the time of the Gadsden Treaty the owners of each of said grants were likewise Mexicans and citizens of the Republic of Mexico.

That all the steps and proceedings in the matter of the grant and sale of each of the said grants were regular, complete, and lawful, and vested a perfect and valid title in fee thereto in the said grantees of each of said grants, and that said grantees at the time went into the actual  
8        possession, use, and occupation of each of said grants and erected the proper monuments, and that said grantees and their descendants and legal representatives have continued ever since and until the present time in the actual possession, use, and occupation of the same, and are now seized and possessed in fee thereof; that each of said grant documents is a complete, definitive grant in fee by way of sale, coupled with the condition subsequent not to abandon the same for a longer period than three years, without good reason, which would subject the tract to adjudication to third parties who might apply for or denounce the same; that no forfeiture of said grants or either of them was ever claimed, and that your petitioners are entitled to a confirmation of each of said grants in accordance with the meets and bounds set forth in the original surveys and grants of the same.

That the lands claimed by your petitioners are all the lands embraced within the original surveys of each of said grants, to the boundaries established and described therein, and that said lands are the lands embraced within the accompanying maps filed herewith of each of said grants.

Your petitioners further allege on information and belief that there are no persons in possession of any part of either of said grants or claiming either or any part of same otherwise than by the lease or permission of your petitioners, except the Santa Cruz Water Storage Company, a corporation organized and doing business under the laws of the Territory of Arizona, which is possessing and claiming adversely to said grant and adversely to the title of your petitioners a portion of the said Maria Santissima del Carmen alias Buena Vista grant.

Wherefore your petitioners pray that the validity of their said titles may be inquired into and decided, and that the titles of your petitioners to said lands be declared valid, and for such other and further relief as to the court may seem meet and proper in the premises.

CHARLES WESTON WRIGHT,  
ROCHESTER FORD,

*Attorneys for petitioners.*

(Endorsed:) Petition, case No. 6. Filed in Court of Private Land Claims March 1, 1893. James H. Reeder, clerk. By R. L. Long, dep.

9 And be it further remembered that on said first day of March, 1893, a summons was issued, which summons, with all endorsements thereon, is as follows, to wit:

*Summons.—U. S. Court of Private Land Claims.*

In the United States Court of Private Land Claims.

UNITED STATES OF AMERICA, *District of Arizona, ss:*

FREDERICK MAISH AND THOMAS DRISCOLL,  
partners as Maish & Driscoll, plaintiffs,

*versus*

THE UNITED STATES AND THE SANTA CRUZ  
Valley Water Storage Company, a corpora-  
tion, defendants.

Petition filed in the  
clerk's office, this 1st  
day of March, A. D.  
1893.

The President of the United States of America to The United States of America and the Santa Cruz Valley Water Storage Company, a corporation, greeting:

You, and each of you, are hereby notified that an action has been brought in said court, by Frederick Maish and Thomas Driscoll, partners as Maish & Driscoll, plaintiffs, against you as defendant, under the provisions of the act of the Congress of the United States entitled, "An act to establish a court of private land claims, and to provide for the settlement of private land claims in certain States and Territories," approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you and that you are required to appear and plead, demur, or answer to the petition filed in said action, in said court, within thirty days after the service of this summons upon you, and if you fail so to do, the said plaintiff will take default according to the provisions of the aforesaid act.

Witness, the Honorable Joseph R. Reed, Chief Justice of the Court of Private Land Claims, and the seal of the said court, at the city of Tucson,

Arizona Territory, in said district, this first day of March, A. D. 1893, and of the independence of the United States the 116th year.

[COURT SEAL.]

JAMES H. REEDER, *Clerk.*  
By R. L. LONG, *Deputy Clerk.*

10 UNITED STATES OF AMERICA, *Territory of Arizona, ss:*

TUCSON, *March 6th, A. D. 1893.*

I hereby certify that I received the within writ on the 4th day of March, A. D. 1893, and that I have personally served the same upon the said defendant, M. P. Freeman, president of the Santa Cruz Valley Water Storage Company, a corporation, by delivering to said M. P. Freeman, president of the Santa Cruz Valley Water Storage Company, a corporation, and each of them personally, a true copy of the within writ, at the time and place as follows: As to M. P. Freeman, at Tucson, county of Pima, Arizona, on the 6th day of March, A. D. 1893. As to .

I hereby acknowledge service of the within petition this the 8th day March, 1893.

MATT. G. REYNOLDS  
*U. S. Attorney, Court of Private Land Claims.*

This writ therefore, returned as the law directs, this day  
of A. D. 189 .

R. H. PAUL, *Marshal.*  
By ———, *Deputy Marshal.*

Marshal's fees: Service, defendants, at \$2, \$ ; mileage,  
miles at 6c. going only, \$ ; total, \$ .

Paid by .

(Endorsed:) Gen. No. 6. File No. 4. U. S. Court of Private Land Claims, district of Arizona. Maish & Driscoll, plaintiffs, versus United States et al., defendants. Summons. Filed this 27th day of June, A. D. 1893. James H. Reeder, clerk. By R. L. Long, deputy clerk. Rochester Ford & Charles Weston Wright, of Tucson, A. T., attorney for plaintiff".

11 That thereafter, to wit, on the 27th day of February, A. D. 1894, the attorney for the United States filed an answer to the foregoing petition, which answer is as follows, viz:

UNITED STATES OF AMERICA, *ss:*

In the Court of Private Land Claims, Arizona district.

MAISH & DRISCOLL, PLAINTIFFS,

*vs.*

UNITED STATES ET ALS., DEFENDANTS.

} No. 6.

Comes now the United States and for its separate answer to the petition filed in the above-entitled cause, says:

That as to the truth of the allegations contained in said petition, it has no knowledge or information sufficient to enable it to form a belief, and demands that plaintiffs be put to their proofs.

Further answering, it says: That said claim as asserted and of which confirmation is asked according to the survey and plat filed in this cause,

conflicts with what is known as the Sopori and Buena Vista grants now pending before this court.

That if such claims should be confirmed as prayed and the boundaries established as claimed and asked by plaintiffs, the conflicts are material, and the United States therefore pleads a defect of parties defendant.

Defendants aver and plead a misjoinder of causes of action in this petition with what is known as the Canoa and Buena Vista grants, which are sought to be confirmed under the allegations in one petition, when upon a trial of said case, severance must be had for the reason that they do not depend upon the same grant title nor do they depend upon the same survey nor are the same facts applicable to both claims.

It therefore asks for severance, and that plaintiffs be required to file distinct and separate petitions if they desire to assert each claim.

MATT. G. REYNOLDS,

*U. S. Attorney.*

(Endorsed:) F. No. 13. Answer. Filed in the office of the clerk Court of Private Land Claims, Febr. 27, 1894. Jas. H. Reeder, clerk. By R. L. Long, deputy.

13 And be it further remembered that on the 19th day of March, A. D. 1894, being a day of the regular term of the court held in Tucson, Arizona, the following proceedings were had:

MAISH & DRISCOLL, PLAINTIFFS,	} No 6. Canoa and Buena Vista grants.
<i>vs.</i>	
UNITED STATES ET ALS., DEFTS.	}

In this cause the plaintiffs, by their attorney, Rochester Ford, esq., submits to the averment in the answer of the U. S. attorney that there is a misjoinder of the causes of action in the petition on file herein, as the Canoa and the Buena Vista grants are sought to be confirmed under one petition, when, upon the trial of said cause, severance must be had for the reason that they do not depend upon the same grant title, nor upon the same survey, whereupon the court granted the plaintiffs permission to file separate petitions in each case.

That on the 1st day of March, 1894, the plaintiffs herein, by their attorneys, Charles Weston Wright, esq., and Rochester Ford, esq., filed in the office of the clerk their amended petition, which is in the words and figures following, to wit:

14 In the Court of Private Land Claims.

UNITED STATES OF AMERICA, *Territory of Arizona*, ss:

FREDERICK MAISH AND THOMAS DRISCOLL,	}
partners as Maish & Driscoll,	
<i>vs.</i>	
THE UNITED STATES.	}

*Petition of Frederick Maish and Thomas Driscoll for the confirmation of their title to the San Ygnacio de la Canoa private land claim.*

Come now these petitioners, Frederick Maish and Thomas Driscoll, by their attorneys, and by leave of court first had and obtained, file this

their amended petition herein, and respectfully represent to this honorable court as follows:

That they are, and since the year 1871 have been, partners residing and doing business in the city of Tucson, Territory of Arizona, under the firm name and style of Maish & Driscoll.

That as such partners they are the owners in fee, holders, and possessors of that certain tract of land lying, being, and situate in the county of Pima, Territory of Arizona, commonly known and called the San Ygnacio de la Canoa grant or private land claim, which tract of land is more particularly hereinafter described.

That they own in fee, hold, and possess such land under and by virtue of a certain instrument of writing now and hereafter designated as and being

15 a grant title, bearing date the 2nd day of February, 1849, duly made and executed by Antonio Teran y Peralta, treasurer-general of the free and sovereign State of Sonora, in the Republic of Mexico, in the name of the sovereignty of said State, under and by virtue of article 11 of the general sovereign decree No. 70, passed on the 4th day of August, 1824, by the Sovereign Constituent Congress of the United States of Mexico, which article concedes to the States of the Republic of Mexico the rents or revenues which by said law are not reserved to the General Government, one of which revenues is the vacant lands within the respective States, which lands in consequence belong to such States; for the disposition of which lands under said decree the Constituent Congress of the State of Sonora and Sinaloa passed a law numbered 30, bearing date of the 20th day of May, 1825, and other decrees relative thereto by other successive legislatures, which decrees are embodied in sections 3, 4, 5, 6, and 7 of chapter 9 of the Organic Law of the Treasury, No. 26, bearing date the 11th day of July, 1834.

That under and by virtue of such laws and decrees such proceedings were thereunder lawfully and regularly had as that the said Treasurer-General of the State of Sonora, Republic of Mexico, in the name of the sovereignty of said State, duly and regularly and for a good and valuable consideration, to wit, the sum of two hundred and fifty dollars, and for the other good and valuable considerations in said grant title set forth and described, did, on the said 2nd day of February, 1849, sell and convey in fee to Tomas and Ygnacio Ortiz the land hereinbefore mentioned and more particularly hereinafter described, known as the San Ygnacio de la Canoa grant.

That the proceedings resulting in the issuing of the title to the lands embraced in said grant were instituted by a petition dated September 6th, 1820, addressed to the Governor Intendent, who was then  
16 the officer of the Spanish Government in charge of and having exclusive jurisdiction in the matter of the sales of the public lands in the jurisdiction of Tubac, in which jurisdiction the lands thus petitioned for were situated; that proceedings of survey, valuation, and publication were taken on this petition as required by the instructions and laws of the Royal Ordinances of Intendentes, of December 4, 1786, and that on December 15th, 1821, the tract petitioned for and as surveyed according to the calls of the expediente thereof was sold by the officers of the Mexican Republic to Tomas and Ygnacio Ortiz, the grantees therein, for the



sum of two hundred and fifty dollar', which amount was thereupon paid by said grantees into the National Treasury of the Mexican Republic. That the said sale was on December 17th, 1821, approved by the Provincial Junta de Hacienda, or Provisional Assembly of the National Public Lands, and on the same day was referred to the Supreme Junta of Royal Hacienda for its approval; that before it could be approved the said Supreme Junta of Royal Hacienda was abolished, and no further proceedings were taken thereon till January 30, 1849, when the said grantees applied to the Treasurer General of the State of Sonora for the issuance to them of the formal title to the said lands for which they had made payment as aforesaid, whereupon there was issued to them on said 2nd day of February, 1849, the final testimonio or evidence of title of said grant, and the same was thereupon duly recorded on page 75 of the book of Toma de Razon for said year 1849.

That the map hereto attached and made a part of this petition as Exhibit A correctly represents as near as may be the lands embraced within the said grant, the boundaries thereof and where the same are situated.

17 That the original grant title or instrument of writing by which said grant was conveyed to the aforesaid grantees is not in the possession or under the control of your petitioners, but is, together with other records and papers relating to said grant, in the possession and custody of said United States surveyor-general of the Territory of Arizona, at the city of Tucson; that for this reason the said original document constituting and creating said grant, together with transcripts or copies thereof, can not be herewith presented or delivered, nor can copies of said grant be now furnished as required by the rules of this honorable court, but when by the order of this court the said original title papers are procured, your petitioners will furnish the necessary and requisite copies of said instruments in the Spanish and English languages.

That under the provisions of the 8th section of the act of Congress, approved July 22, 1854, entitled "An act to establish the offices of surveyor-general of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein," and for other purposes, and under acts amendatory or in extension thereof, or supplemental thereto, your petitioners filed on September 2, 1879, in the office of the United States surveyor-general for the Territory of Arizona, their petition asking for the confirmation to them of the said San Ygnacio de la Canoa grant, accompanying which petition were the original title papers of said grant; that thereupon the United States surveyor-general caused said grant to be investigated by one R. C. Hopkins, a duly authorized and competent agent of the United States, and the said United States surveyor-general, in his official report under date of February 20, 1880, to Congress on

18 said grant, reported that the original expediente of the same, containing forty-five pages, was found in its proper place in the archives of Mexico; that the writing was on the corresponding-stamped paper; that the signatures to the several papers forming the expediente are genuine, and that the said title was duly recorded in the entries of the Book of Toma de Razon for the year 1849. Your petitioners further represent that the report of Special Agent Hopkins fully

established the genuine character of the original title papers of such grant, and that the report of the said surveyor-general recommended the confirmation of said grant to your petitioners, but that no action was taken thereon by Congress or by any authorities of the United States.

That the statements in said reports of said Hopkins and said United States surveyor-general are true, and that said grant is, and at the time of the execution of the treaty, known as the Gadsden Treaty, was located and duly recorded in the archives of Mexico.

That your petitioners own, hold, and possess said grant under and by virtue of diverse and sundry mesne conveyances made by the original grantees of said grant and their grantees to your petitioners, all of which conveyances are on file and of record in the office of the county recorder of the county of Pima, Territory of Arizona, abstracts whereof your petitioners will furnish to this court at such times and upon such terms as the court may direct.

That the original grantees of said grant were Mexicans and citizens of the Republic of Mexico, and that at the time of the Gadsden Treaty the owners of said grant were likewise Mexicans and citizens of the Republic of Mexico.

That all the steps and proceedings in the matter of the petition, survey, appraisement, offers, auctions, and sales of said grant, and paym't therefor were regular, complete, and lawful, and vested a perfect  
 19 and valid title in fee thereto in the said grantees of said grant, and that said grantees at the time went into the actual possession, use, and occupation of said grant, and erected the proper monuments, and that said grantees and their descendants and legal representatives have continued ever since until the present time in the actual possession, use, and occupation of the same, and are now seized and possessed in fee thereof; that said grant document is a complete, definitive grant in fee by way of sale, coupled with the condition subsequent not to abandon the same for a longer period than three years, without good reason, which abandonment would subject the tract to adjudication to third parties who might apply for or denounce the same; that no forfeiture of said grant was ever claimed, and that your petitioners are entitled to a confirmation of said grant in accordance with the metes and bounds set forth in the original survey and grant of the same, which metes and bounds your petitioners aver are correctly represented by the map of said grant hereto attached.

That the lands claimed by your petitioners are all the lands embraced within the original survey of said grant to the boundaries established and described therein, and that said lands are the lands embraced within the accompanying map of said grant filed herewith. (Said map appears hereafter as Exhibit B.—Clerk.)

Your petitioners further allege, on information and belief, that there are no persons in possession of any part of said grant otherwise than by the lease or permission of your petitioners.

Wherefore your petitioners pray that the validity of their said title may be inquired into and decided, and that the title of your petitioners to said lands be declared valid; and your petitioners pray for such other

and further relief as to the court may seem meet and proper in the premises.

CHARLES WESTON WRIGHT,  
ROCHESTER FORD,  
*Attorneys for Petitioners.*

(Endorsed:) Frederick Maish & Thos. Driscoll, partners as, vs. U. S. Amended petition. Filed March 1, 1894. Jas. H. Reeder, clerk. By R. L. Long, dep.)

20 And that thereafter, to wit, on the 15th day of August, 1894, the following order was made and entered, viz:

It is hereby ordered that in all cases pending in the district of Arizona plaintiffs are hereby ordered to file with the clerk of the court of that district, on or before September 20th, 1894, all original documents upon which they expect to rely in establishing title in the original grantees, together with three copies and three translations of the same. If the original documents are not in their possession or under their control, then certified copies of the same shall be filed.

It is further ordered that all mesne conveyances, together with copies and translations, shall be filed within said time, and an abstract of deraignment of title from the original grantee to the plaintiffs shall be served upon the United States attorney on or before the 25th of September, 1894, and the clerk is hereby ordered to enter this order of record and to mail to counsel in each case a copy of this order.

JOSEPH R. REED, *Chief Justice.*

SANTA FE, Aug. 15, 1894.

Entered of record in Journal 1, page 73, and copy mailed plaintiffs' attorneys.—Clerk.

21 And be it further remembered that thereafter, to wit, on the second day of April, A. D. 1895, the same being the 14th day of the March term, 1895, held in the city of Tucson, Arizona, this cause came on regularly for trial. Matt G. Reynolds, esq., attorney for the United States, and Rochester Ford, esq., and C. W. Wright, esq., appearing for the plaintiffs, Maish & Driscoll.

On motion, the court ordered that the Sopori Land and Mining Company be made a party defendant hereto, whereupon Robert B. Lines, esq., appeared for said company.

The court ordered that the U. S. surveyor-general of Arizona deliver to the clerk of this court all the papers on file in his office relating or pertaining to the claim commonly known as the San Ygnacio de la Canoa claim, taking his receipt therefor.

The trial not being concluded, the same was continued on the following day, and on the 4th day of April, 1895, after argument by counsel, the matter was submitted to the court for decision, and was by the court taken under advisement.

The evidence, both oral and documentary, as offered and introduced on the trial, is as follows, viz:

22 In the Court of Private Land Claims, District of Arizona,  
April, 1895.

MAISH & DRISCOLL, PETITIONERS	} Involving the title to the land claimed by the "San Ygnacio de la Conoa grant."
<i>vs.</i>	
THE UNITED STATES AND THE SOPORI LAND and Mining Co., defendants.	

*Transcript of the evidence offered and proceedings had in open court in the above-entitled cause on the 2nd & 3rd days of April, A. D. 1895.*

YGNACIO BONILLAS, a witness called and sworn on behalf of the petitioners, testified as follows:

Direct examination by Mr. FORD:

Q. Please state your name, age, residence, and profession.

A. Ygnacio Bonillas; thirty-seven years old; residence, Magdalena, Sonora, Mexico; profession, mining engineer and surveyor.

Q. What education have you had in your profession, and what experience, and where?

A. I took a course in mining engineering and surveying in the Massachusetts University of Technology, in the city of Boston; I have practiced surveying and mining engineering since 1883, both in this country and in Mexico.

Q. Are you familiar with the Spanish language, and do you translate Spanish into English and English into Spanish?

A. I do.

Q. State with what proficiency you do it?

A. The Spanish language is my native tongue; I understand it thoroughly.

Q. What experience, if any, have you had in surveying land claimed under Spanish and Mexican titles?

A. I have surveyed such lands off and on since I began the practice of my profession; from 1883 up to the present time.

Q. Have you surveyed many or few?

A. I have surveyed many such grants.

23 Q. Where were such grants located?

A. Both in the State of Sonora and Territory of Arizona.

Q. Did you ever make a survey of the private land claims, known as the San Ygnacio de la Conoa, in Pima County, Arizona Territory?

A. I did.

Q. Please state from what data you made the survey, how and when you made it, and the results of it.

A. I believe I took my data from the survey—from the testimonio. I believe I said in my report where I took it from [looking at his report]; from the testimonio filed in the surveyor-general's office.

Q. Before going into that, I will ask you another question. Do you know whether there is in the archives at Hermosillo, State of Sonora, Mexico, an expediente of the San Ygnacio de la Conoa grant?

A. I made an examination of the archives for that purpose, and I took notes [referring to notes]. Yes, sir; there is an expediente in the archives of the treasurer-general of the San Ygnacio de la Conoa.

Q. Will you please state the contents of that expediente as far as you examined it?

A. The grant is for four sitios of land; the petition was addressed to the "Senor Governor Intendant," dated September 6, 1820; admitted and ordered that a survey be made, by Intendant Cordero, at Arispe, May 29, 1821, and the receipt for the payment of the money, by Escalante and Fuente, dated December 17, 1821. On the back of the expediente was the note that the title was issued, signed by Deran, with his rubrica.

Q. (By Mr. REYNOLDS.) Any date given to that instrument?

A. No; that is all the note.

By Mr. FORD:

Q. What kind of paper is that expediente written on?

A. As far as I am able to say, it is written on duly stamped paper.

Q. Did you examine and compare the signatures of Escalante, Fuente, Deran, and the other signatures with similar documents? And if so, state whether or not, in your opinion, they are genuine.

A. I did compare them and they are very much the same signatures that are on other documents, to the best of my knowledge.

Q. And are these signatures, in your opinion, genuine?

A. I think they are.

24 Q. You may now state how you made the survey.

A. I took my notes for the survey from the testimonio, or title papers of the grant, which document is on file in the office of the surveyor-general, at Tucson, Arizona. The initial or starting point is described as being established at Paraje de la Conoa, that being the starting point. [Interrupted.]

By Mr. REYNOLDS. Instead of going into detail, as we have no objection to the survey, or that it has not been made according to the title papers, just let him state that he made the survey according to the title papers.

By Mr. FORD:

Q. Please state whether or not that map which you now have in your hand, marked "Map San Ygnacio de la Conoa, private land claim, situated in Pima County, Arizona, surveyed by Y. Bonillas, November, 1893," correctly represents the tract of land called for in the testimonio as the San Ygnacio de la Conoa grant, according to the landmarks set out and described in the title papers.

A. Yes, sir; I found every monument called for in the title with the exception of the south centre monument, which I could not find, and I understand that it was established in the valley of the river, and I have no doubt that it was destroyed; but I found the southeast and southwest corners, and I connected those two points by one straight line.

By Mr. REYNOLDS:

Q. How much is called for—four leagues?

A. Yes, sir.

Q. What is the area which you found?

A. I have the area which I found within these monuments; it is 46,696.2 acres.

Q. That map about which you have testified was made from your notes?

A. Yes.

By Mr. REYNOLDS. I was misled about the matter. Instead of standing on my admission, you had better go into the subject of the survey. I withdraw my admission.

By Mr. FORD. Certainly. That is perfectly satisfactory.

By Mr. FORD:

Q. I show you a paper endorsed "La Conoa original title papers, filed surveyor-general's office, Arizona, July 17, 1880, 2.30 p. m.," pur-  
25      reporting to be the original titulo of the San Ygnacio de la Conoa, signed by Antonio T. y Peralta, and ask you to examine the signature and state whether or not in your opinion that signature is genuine, basing your answer upon examinations that you have made of the records.

A. I am not very *afmil'ar* with that signature. I have seen it before in some of the documents in the archives; it seems to be the same.

Q. You saw it in the expediente, did you not?

A. I do not remember exactly.

Q. Refer to your notes and see if you didn't.

A. I do not find that name in my notes.

Q. Examine the signature with reference to the same signatures that you have seen in other documents.

A. I think it is the same.

By Mr. FORD. We offer in evidence the translation of the original testimonio.

(Said document was thereupon marked "Exhibit A.")

Q. Now, I ask you to state, if you please, when and how you made the survey of which you have spoken, and the result of it.

A. I made this survey in the month of November, 1893. Before proceeding to make the survey I went to the surveyor-general's office and made an examination of this testimonio, and took notes from the original field notes of the survey. I then proceeding to the Conoa, which is Maish & Driscoll's ranch, in company with Don Jesus Maria Elias and Jose Maria Cu ro, two persons who are perfectly famil'ar with the country about La Conoa, for the purpose of identifying some of the places mentioned in this survey, and of the original starting point. While I was there these two gentlemen, as well as Mr. Kitchen, pointed out to me the place called La Conoa, which was already known to me for many years back. They pointed out exactly the same place called the "Paraje de la Conoa." That was a point on the highway between Tucson and Tubac. From this starting point, which is on the east bank of the Santa Cruz River, on the old road, the title papers state that 378 cordeles, or cords, were measured to the north, in the direction of the north, along the public highway, which measurement ended at the place called Sagarito. The place Sagarito is a well known point; it is on  
26      the public highway, and I have known it since 1870. The title papers state that the measurement ended at that place, and that



there was standing at the time a saguaro (giant cactus), and that place was designated as the place for the north center monument. We next set off in the direction of the west. They then measured from this north centre monument fifty cords, which terminated at the foot of a single hill, which stands alone, and its is covered with black rocks, and grown up with saguaro (giant cactus) and palo verdes. To the right of this hill there is a very low and small hillock, and the order was given that a pile of rocks be put on the top of that hill to make the northeast corner [interrupted]—

By Mr. REYNOLDS. You mean northwest corner?

A. Yes; the northwest corner. I went to the top of that hill, and I found the monument. I have no doubt it is the northwest corner as originally put there. Every point in the description is to be found there. From the saguaro there is this little hill rising there in the plains. When you go there, it is as stated in the description; to the right of it there is this very small hillock, and there is the monument, as stated. So I found the monument of the northwest corner. The northeast corner is said to have been established by starting from the same north centre monument at the Saguarito, and running in the direction of the east towards the point of the mountain called the Sierrita, or Cerrita del Puerto de los Muchachos. I inquired which was this chain of mountains, and these old gentlemen told me that is this chain of mountains that is to the east from the Saguarito, and that this call was a pass in the mountains which is called the "Puerto de los Muchachos," "The mountain pass of the boys." I took that direction, and they next state that the measurement ended in the valley, in the low ground, in the direction of the point of these mountains, and that a cross was made to mark the place of the northeast corner monument. Going in this direction, I found a very old monument, which is the only one to be found for two or three miles around. I looked all around and could not find any other, and I made up my mind that was the northeast corner monument. It is almost exactly in line with the north centre monument at the Saguarito, and this little hill which rises on the plain, and where the northwest corner is established. I then returned to the centre and tried

27 to retrace the survey as given in the original field notes. From the centre the west and the east centre monuments were established.

The west centre monument is said to have been established by measuring fifty cords from the initial starting point in the direction of the west along a gulch or ravine towards the Sierrita de la Tinaja. The measurement is said to have ended in a small gulch to the right upon a very low hillock, where a pile of stones was placed to marked the west centre monument. I had no trouble in finding out what was the chain of mountains called the Sierrita de la Tinaja. It is in the direction of the west from the starting place of La Conoa, and going across the river, across the valley, I found a gulch opening into the valley directly opposite. I followed this gulch; sometimes I would go in the gulch and then I would go out and look on both sides, and looking on the right side (north side) of the gulch, exactly in place on a little hillock, as described in the title papers, I found a very old monument; that is, fronting this Sierrita de Tinaja. I think that monument is the west centre monument of the grant. The east centre monument is said to have been established

by running fifty cords in the direction of the east, which measurement ended upon a low, extensive table-land or mesa, very clean and covered only with short grass, in front of where the height of the Santa Rita Mountains begins to decrease, there being on the upper side of said mesa to the right a gulch which continues towards said Santa Rita Mountains. Going in the direction of the east from the initial point there is such a mesa as described, a very low and very extensive mesa, which goes clear to the foot of the Santa Rita Mountains. To the right of the mesa there is a gulch that goes to the Santa Rita Mountains, and upon this mesa I found a very old monument, which answers in every particular the description of the calls of the title papers, and I took that monument as the east centre monument of the grant. The south centre monument of the grant is said to have been established by measuring twenty-two cords from the centre or the starting point towards the south, which measurement ended upon the line—boundary line—of the lands belonging to the military post of Tubac. The person making this survey was the military commander of the post of Tubac at the time, and states that *we* brought with

28 him the original expediente, which was in the archives under his charge, so as not to encroach upon the lands of Tubac, and on the boundary line of those lands he caused a cross to be cut into a mesquite tree at the point where the monument should be established. This point I could not find; I suppose, it being so long ago, the mesquite has probably been destroyed, or something had happened; I could not find this point. The southwest corner is said to have been established by measuring fifty cords along the boundary line of these lands of the military post of Tubac, which measurement ended along some low hillocks, where a pile of rocks was placed to mark the place for the monument. This monument was known to the interested parties, to Mr. Maish, who was with me in the field, and instead of looking for it he simply showed it to me. It answers the description given in the title papers, and I took it as the southwest corner of the grant. Same with the southeast corner monument—was known to him. It is said to have been established along same boundary line of the lands of Tubac, upon a low mesa or table-land along a gulch known as "Timber Gulch" (Canada de la Madera). Mr. Maish showed me the monument standing on a low rocky mesa, as is described, between two branches of the gulch, and there is no doubt in my mind that it is the southeast corner monument. It is about the same distance from the centre as the southwest corner monument, and I took it as the southeast corner of the grant. So there are eight out of the nine monuments originally mentioned which I found and identified. I made the survey by triangulation. I measured a base line. I commenced then to measure. I used the centre monument as located, and placed flags at every one of these points—these monuments, and besides on some high peaks and high hills I established trigonometrical stations. I made angular observations to each one of these points from both ends of the base line, and by the well-known process of trigonometrical calculations I ascertained the distance between these points.

Q. Did you make a map of this survey?

A. Yes, sir.

Q. I hand you map endorsed "Map San Ygnacio de la Conoa, situated in Pima County, Arizona, surveyed by Y. Bonillas, November, 1893; area, 46,696.2 acres," and ask you what map that is?

A. That is the map that I made, and a copy of the map that I made of this grant.

29 Q. Does or does not that map correctly represent the survey made by you of this grant?

A. It does.

Q. According to the title papers of the grant?

A. Yes, sir; according to the title papers of the grant.

By Mr. FORD. We offer that map in evidence.

(Said map was thereupon marked "Exhibit B.")

Q. Did you, at Hermosillo, Mexico, examine a number of expedientes in the archives and make a memoranda of their contents?

A. I did; yes, sir.

Q. On what paper was each expediente, if you remember?

A. I examined a great number of them, and they were all on duly stamped paper. Some of them were on common paper, but this paper was duly habilitated.

Q. From what were your memoranda made?

A. From the original expedientes in the archives of the treasurer-general of the State.

Q. Is each of the expedientes which you examined contained in the printed catalogue of the expedientes, which catalogue was printed by the State of Sonora in 1869?

A. Yes, sir; every one of them.

Q. Did you examine the signatures; and if so, what was the result of your examination?

A. Of each expediente that I examined I considered them to be genuine, and they are so considered by the Mexican authorities.

Q. I ask you to state if the document which I show you has been compared by you with your original notes, and as to whether or not it correctly states the facts in regard to the expedientes which you examined, as testified to before?

A. Yes, sir; it is a copy of the substance of the notes which I have made. I have examined it carefully and made some corrections where it didn't agree with my notes.

By Mr. FORD. We offer that in evidence.

(Said document was thereupon marked "Exhibit C.")

This is to show that action was taken in many grants similar to the Conoa, and that it was the custom of these officials of the Government to proceed in the making of grants just as they did in this grant.

30 By Mr. REYNOLDS. I desire to enter an objection, for the reason that this is not the proper manner or proceeding to establish a custom, nor can an official *you* has undertaken to exercise official authority and vest in the grantee any of the public domain originate a custom or establish a custom that is in direct violation of the law under which he acts.

No ruling.

Q. I will ask you, Mr. Bonillas, whether you found in the archives of the treasurer-general of the State of Sonora, at Hermosillo, a letter signed by Jose Maria Mendoza, dated Arispe, November 20, 1830, and whether or not the paper which I hand you is a correct translation of the same?

A. It is a correct translation. I have looked it over and compared it with the original notes that I took at the time and corrected it.

Q. You have the Spanish copy of it?

A. Y's, sir.

Q. State whether or not you found other letters from same persons similar to this; and if so, describe them.

A. I found the same letter, but with reference to different grants, addressed to Francisco Robles, referring to the Los Petores; this same letter addressed to Francisco Maria Grande in regard to his Terrenate.

Q. When was that land registered?

A. The Los Petores was in 1821; the Terrenate was in 1822.

Q. All these letters [interrupted]—

A. There are others. The same letter was addressed to Francisco Narbona and Don Agustin Borano concerning the grant of Batana, which had been registered, I believe, in August, 1822.

Q. I will read one of them. [Reads document marked "Exhibit DD."]

Q. You have seen the signature of Jose Maria Mendoza many times?

A. Yes, sir; a great many times.

Q. What do you say as to the signature on that document, of which that is a translation; was it or not genuine?

A. I have no doubt that it was genuine.

By Mr. FORD. I offer in evidence a translation of that letter.

(Said translation was marked "Exhibit D.")

I also offer in evidence a copy of the certificate of Mr. Aguilar, 31 treasurer-general of the State of Sonora, Republic of Mexico, given at Hermosillo on the 5th day of February, 1895.

(Said document was thereupon marked "Exhibit E.")

I also offer in evidence certificate of Aguilar, treasurer-general of the State of Sonora, which certifies to a certificate given by Jose Maria Mendoza on the 2nd of May, 1831. The certificate of Aguilar is dated at Hermosillo on the 24<sup>th</sup> of April, 1894.

(Said document was thereupon marked "Exhibit F.")

This is offered as a statement or admission by the chief federal officer of the Republic of Mexico in the year 1831; that the public lands had been sold, as stated, and that at this date, 1831, he received payment, which was for land sold in December, 1824.

Court at this point took an adjournment until to-morrow, Wednesday, morning, at 10 o'clock a. m.

#### WEDNESDAY MORNING, *April 3rd, 1895.*

Court met pursuant to adjournment. The trial of this cause was proceeded with, all being present as on yesterday.

By Mr. FORD. I offer in evidence translation of the certificate of the treasurer-general of the State of Sonora.

(Said document was thereupon marked "Exhibit G.")

We offer in evidence a translation of the certified copy by the treasurer-general of the State of Sonora of the entry in the book of Toma de Razon, of the San Ygnacio de la Conoa grant.

(Said document was thereupon marked "Exhibit H.")

YGANCIO BONILLAS recalled for further examination by the petitioners.

Direct examination by Mr. FORD:

32 Q. Have you ever seen any of the original titulos of any of the grants named in the memoranda which you made and which was offered in evidence yesterday [referring to Exhibit C]?

A. I have some of them.

Q. Please state those you have seen and under what circumstances.

A. I have had in my hands the testimonio of the grant called Alamo de Sevilla. I was appointed to make the survey of that grant, and I did survey it in 1885, I think.

Q. For whom did you survey it?

A. I surveyed it on the petition of the owners of the grant, the Elias'.

Q. Do you know whether that grant was then recognized as a lawful title, and whether the parties were in possession at that time claiming under that title?

A. It was recognized as a good title, and the owners were in possession of the grant.

Q. Have you seen the title papers of any other of the grants that you have testified about?

A. I have seen, and had in my hands also, the certified copy of the testimonio of the Batana grant. This is a grant situated in the district of Arispe, and I was making a survey of quite a number of grants there, and I had a certified copy of the testimonio of this grant, and I made a survey of it—that is the cabida legal of the grant; it calls for four sitios. I established the four corner monuments according to the calls of the title.

Q. Do you know whether or not that was recognized as a valid title, and whether the parties are in possession claiming under that title?

A. Yes, sir.

By Mr. REYNOLDS. I wish to enter an objection. As to whether it was recognized as being a valid title by Mexico has nothing to do with the validity of this grant; it can recognize anything it wants to, whether it is valid or invalid, but such recognition can not make this a valid title according to the laws and stipulations of the treaty.

No ruling.

Q. Was there any other grant among those about which you have testified?

A. Yes, sir. The "Cuchuta;" this is a grant for eight sitios. I also had a certified copy of the testimonio in my hands. I made a survey of that grant, both of all the lands included within the old monuments and marked each, but also placed monuments and marked the cabida legal.

33 Q. Do you know whether or not that is recognized, and whether the parties were in possession and claiming title in that grant?

A. The parties were in possession and the Government recognized the cabida legal.

Q. Did the Government recognize the cabida legal of the other grants?

A. Yes, sir. In the Batana and Cuchuta they would have recognized the demasias, but the owners didn't want it; and in the Alamo de Sevilla the grant called for four sitios, and there were 23½; the Government issued title for the demasias and recognized the cabida legal.

## Cross-examination by Mr. REYNOLDS:

Q. Mr. Bonillas, in the grants that you speak of and about which you have testified as having been surveyed by you and recognized by the Mexican Government, did those grants have any demasias?

A. Yes, sir; they all had them.

Q. Did you survey these demasias?

A. I did in the case of the Alamo de Sevilla.

Q. What you call the cabida legal, that is the amount of land to which the title had passed?

A. Yes, sir.

Q. Included in the title?

A. Yes, sir.

Q. Then the land which was not included in the title, but was included within the natural objects or monuments which the parties were claiming, or excess, was required to be denounced by the party who claimed the cabida legal and paid for by the party claiming it? [Interrupted.]

A. Yes, sir.

Q. (Continuing.) And if he did not do it, then it was subject to denouncement or claim by anybody else who might want it?

A. Yes, sir; with this difference, that the party having possession and owning the grant had quite a number of privileges; he could have acquired the demasias by paying one-half of the tariff price for the public lands. In case anybody else petitioned for this demasias, then the party owning the land was still entitled to acquire them, but only by paying the full tariff price, in which case one-half of that price went to the Government and the other half to the party who might make the denouncement.

34 Q. Take this grant now, the grant on trial, taking the initial point as you have established it, take the courses and distances as giving therein respectively—not the monuments—would it not make about four sitios?

A. It would make four sitios exactly.

Q. Then within the area of the Conoa grant, as surveyed by you, there are a little more than ten sitios, isn't there?

A. It would be ten sitios and 76/100.

Q. If these title papers were given you, you would say under the custom of Mexico, or the law, or whatever it is, you would say that this title covered four sitios, wouldn't you?

A. No, sir; I would say that the cabida legal was four sitios and the demasias was six and a fraction.

Q. Six or seventy-six hundredths?

A. Yes, sir.

Q. This list that you furnished Mr. Ford, and which was offered in evidence (referring to Exhibit C), does that contain sufficient data? I notice you don't give in the second one—the Batana; you don't give the name of the officer who is supposed to have issued the title on May 25, 1825.

A. That is the contents of my notes. My notes in full are "petition addressed to Intendente Bustamante; admitted and ordered on August 16, 1822, for survey and other proceedings; receipt for payment signed



by Fuente and Gonzales October 20, 1822; on expediente the following, in handwriting of Riesgo, note on 15th of May, 1825, title was issued."

Q. But this expediente, or rather this note there, doesn't state that Riesgo issued the title?

A. No' the way it is worded; but he signs it and was the officer at the time issuing these titles.

Q. Did you testify in the Aribac case, Mr. Bonillas?

A. I did, sir.

Q. Are these grantees in this Conoa case, Tomas and Ygancio Ortiz, also grantees in the Aribac case?

A. So I understand.

Q. Now, in the grant on trial—the Conoa—you spoke of the sertificate signed by Deran. What was the first note on that grant, or on the expediente rather, endorsed by Deran?

A. Note that reads "title was issued."

Q. Does it give the date on which the title was issued?

A. Not according to my notes. I simply (interrupted)——

Q. Did you find any other endorsement on it by Deran?

A. On the expediente?

35 Q. Yes, sir.

A. Not that I can remember, or tell from my notes.

Q. Does not the endorsement show in the certificate of Denar that it was noted in the book of Toma de Razon?

A. I can't now tell you whether there is a note to that effect or not. I did examine the book of Toma de Razon.

Q. You found the book, and afterwards found the endorsement in the expediente to the effect that it had been noted in the proper book of Toma de Razon, in the proper place in the archives?

By Mr. FORD. I would suggest in either case the note would not be found in the expediente, but in the titulo.

Q. You did find in the proper place in the Toma de Razon a note similar to the notes that you have seen and that have been introduced in evidence here?

A. I found a note in the Toma de Razon reciting that title had been issued, giving the date.

Q. That note was sufficiently specific to enable you to identify this grant as far as to tell what grant was made, where it was granted, who was the grantee, and the amount of money paid?

A. No, sir. Upon the Toma de Razon there is nothing about the amount of money that had been paid. The book of Toma de Razon, on page 79 [referring to notes and reading], "2nd of February, 1849, title to grant was issued for four sitios for stock-raising, raising of cattle and horses, in favor of Tomas and Ygnacio Ortiz, included in the place called San Ygnacio de la Conoa, jurisdiction and Precidio of Tubac, said persons being residents of said place of Tubac." Signed by Deran, rubrica.

Q. The date of that is 1849?

A. Yes, sir.

Q. How many grants do you find similar to this that had been issued along in '20, '21, '22, and on to '25, which had a certificate of Jose Maria Mendoza, like those which were read in evidence this morning and yesterday evening, attached to them?

A. I will have to refer to my notes. I think every one, from what I can see here covering land, had a certificate of payment being made, although—

36 [Can't transcribe without assistance of the witness—few lines.]

Q. Do you know how many grants there are in the State of Sonora made between 1820 and 1849?

A. No, sir; I do not.

Q. Large number, weren't there?

A. Yes, sir.

Q. There were a large number made between 1820 and 1830?

A. I do not know; but I know there were a great many grants made in 1833.

Q. You have examined nearly all of these grants in Arizona called intendente grants, grants commencing in 1812 and 1820, and which were perfected or claimed to have been perfected in 1825, 1833, and 1849?

A. I have examined some.

Q. Did you find attached to a single one of these a certificate such as this that I have called your attention to?

A. I do not remember.

Q. Wouldn't you, if such certificate was attached to one of those grants, a certificate written by Jose Maria Mendoza, wouldn't you certainly have noticed it?

A. I don't think so.

By Mr. FORD. We admit that there are none.

Q. In examining the entries in the book Toma de Razon, isn't it the general rule, according to your knowledge, the amount of money for which the grant was sold is also designated in the entry?

A. I don't remember of any case.

Q. Did you examine with reference to this especially?

A. The Toma de Razon simply states or gives the date the title was issued, the names of the persons to whom the grant was made, the area of the grant, the jurisdiction in which it is located. That's about the extent of the entry.

Q. And the general name by which the grant is known?

A. Yes, sir; the name of the grant.

Redirect examination by Mr. FORD:

Q. These certificates that you have referred to, and the various letters written by Jose Maria Mendoza about which you have testified, were written, were they not, because of the fact that part of the fees had not been paid at the time of these letters?

A. Yes, sir.

Q. The fundo legal and demasias about which you have already testified exists under the law of 1863, does it not?

A. Yes, sir.

Recross-examination by Mr. REYNOLDS:

Q. Mr. Bonillas, the Government of Mexico, so far as your examination of these titles go, didn't recognize, and didn't so construe it, that the title had passed for any more land than the party had bought, although he might be claiming more land within the natural objects or boundaries, and that was the reason for the "Demasias" law?

A. In case where title was issued for a determined area I think that was so, but in the case where the title was issued for the amount within the boundaries, for the land included within the boundaries, there was no demasias in such a grant.

Q. That's all.

38 It is stipulated and agreed that the printed catalogue entitled "Catalogue of Titles and Expedientes of Lands in the States of Sonora and Sinaloa," which exist in the archives of the treasurer-general of the State of Sonora, printed by the State of Sonora, at Hermosillo, in 1889, contains correct statements, so far as such statements go, regarding expedientes on file in said office of the treasurer-general.

By Mr. FORD. The following extracts from said catalogue were offered in evidence on the part of the plaintiff:

(Clerk will here copy extracts so offered and which have been filed in this cause.

See pages of this transcript for catalogue.—Clerk.)

SANTIAGO AINSA, a witness called and sworn on behalf of the petitioners, testified as follows:

Direct examination by Mr. FORD:

Q. What is your name, place of residence, and profession?

A. Santiago Ainsa; attorney at law; Tucson.

Q. You are familiar with the Spanish language?

A. Yes, sir.

Q. Is that your native language?

A. Yes, sir.

Q. Have you ever made an examination of various expedientes in the office of the treasurer-general in the State of Sonora at Hermosillo, Sonora?

A. Yes, sir.

Q. State whether or not among them you found the expediente of the grant entitled "The San Ygnacio de la Canoa grant?"

A. I did.

Q. Did you make an examination of that expediente?

A. Yes, sir; in April, 1893.

It is stipulated and admitted by the United States that the San Ygnacio de la Canoa is in its proper place in the archives of the office of the treasurer-general of the State of Sonora at Hermosillo, Sonora, and that the said grant is recorded in its proper place in the Toma de Razon, a book, in the office of said treasurer-general.

Q. Mr. Ainsa, did you find in the office of the treasurer-general a book of "Cargo y Dates" for the year 1894?

A. Yes, sir.

39 Q. State whether or not you found in that book an entry referring to the payment of money in 1849 on the extension of the title to the San Ygnacio de la Canoa grant.

A. Yes, sir. In the book "Libro Co on de Cargo y Data" for the year 1849 is found the following. Here is the translation of the same which I have made [interrupted]—.

Q. Please examine the certificate titulo of this grant, and state whether it is a correct translation of the entry which you copied from that book of Cargo y Data.

A. (After examining.) Yes, sir; I have examined it and it is a correct translation.

Q. How much is the amount?

A. Thirty dollars.

Q. Which was the fee for issuing the title?

A. The fees for issuing the title; yes, sir.

Witness excused.

By Mr. FORD. I offer in evidence the title of the San Rafael de la Zanja. I introduce this document and ask permission to have a certified copy filed in the place of it at the proper time.

By Mr. REYNOLDS. I object to it as incompetent, because it is with reference to another grant. The occupation that one grant can not prove the occupation of another.

It is admitted, subject to objection.

(Said document was thereupon marked "Exhibit A.")

CARLOS VELASCO, called and sworn as a witness on behalf of the petitioner, testified through the medium of the official interpreter as follows:

Direct examination by Mr. FORD:

Q. Will you please state your name, age, and residence?

A. Carlos Volasco; 54 years old; residence, Tucson; occupation, newspaper publisher.

40 Q. Did you copy from the original documents in the archives of the government of Sonora, at Hermosillo, Sonora, the laws passed by the Congress of the State of Sonora and communications made by Congress?

A. Yes, sir.

Q. Have you with you the copy which you made from the third communication, dated May the 9th, 1825, from the office of the secretary of the State congress?

A. I do not know the date. [After referring.] Yes, sir.

Q. Do you know to whom that communication is addressed?

A. To the Governor of Sonora and Sinaloa.

Q. Is that the copy made by you, yourself, from the original document?

A. Yes, sir.

By Mr. FORD. We offer the original in evidence—a translation of that law—and the original will be left here in the custody of the clerk.

(Said document was thereupon marked "Exhibit I.")

Witness excused.

JESUS MARIA ELIAS, called and sworn as a witness on behalf of the petitioners, testified through the medium of the acting official interpreter as follows:

Direct examination by Mr. FORD:

Q. Please state your name and age.

A. Jesus Maria Elias, 67 years old.

Q. Where do you live?

A. At Tucson.

Q. Where have you lived?

A. I have lived at Tubac and at Soporí and at Tucson.

Q. Did you know Tomas and Ygnacio Ortiz?

A. I did know them.

Q. When did you first know them, so far as you can remember?

41 A. I knew them since I was old enough to know people, very young.

Q. Have you ever heard of a grant called the San Ygnacio de la Canoa?

A. Yes, sir; I know it.

Q. State whether or not Tomas and Ygnacio Ortiz ever claimed to own that grant?

A. The first knowledge I had of the matter was that the grant belonged to Tomas Ortiz.

Q. And when was this first knowledge?

A. About '43 & '44.

Q. Where was this grant situated?

A. On the Canoa?

Q. Yes.

A. It is situated a distance of about 5 leagues north of the Prísidio of Tubac.

Q. What, if anything, do you know about either one of the Ortizes being in possession of this grant, either by themselves or tenants?

A. In 1843 a man by the name of Pedro Quijada had his stock and cattle at Canoa. This man was married to a sister of Don Ygnacio and Tomas Ortiz.

Q. In the year 1844 said Pedro Quijada took out his cattle towards the town Imurec, towards the south. In the years 1847 and 1848 I knew four men with their families farming in the grant. I was by this farming place on two occasions, and from the conversations I held with these people I learned that they were there with the consent and permission of Tomas Ortiz. About '51 or '52 a son of Don Tomas Ortiz, named Jesus Maria Ortiz, was farming at the place close to the old ranch.

Q. If you ever heard any conversations in which either Tomas or Ygnacio Ortiz talked about or in regard to the San Ygnacio de la Canoa grant, state what you heard.

By Mr. REYNOLDS. I object to his stating what he heard from these men with reference to the occupation or cultivation of this grant as being a declaration of a party in interest in his own interest.

Question withdrawn.

42 Cross-examination by Mr. REYNOLDS:

Q. Are you the gentleman that was on the witness stand yesterday in the Soporí case?

A. Yes, sir.

Q. Your name is Jesus Maria Elias?

A. Yes, sir.

Q. Have you ever known, living in this town, about your own age—66 or 67 years old—another Jesus Maria Elias?

A. No; not of that age.

Q. What is the age of the other Jesus Maria Elias that is living here?

A. He is about 47 years old.

Q. And your age is what?

A. 67.

Q. You testified yesterday that you had never given or made any affidavit or deposition in 1880 in the Sopori case, with reference to the Sopori grant?

A. I declared that I had no knowledge of those surveys, and that I did not know of those surveys being made in the Sopori.

Q. Didn't you testify on yesterday, when the deposition was handed to you of Jose Maria Elias' name signed to it—didn't you deny that you had ever given such deposition?

A. Yesterday, when the document was presented to me, signed by me, I acknowledged that it might be my signature—my handwriting—but I said that the declarations that I made in 1880 were to the effect that I had not seen those surveys made.

Q. Didn't you say on yesterday, during the trial of the Sopori case, when you were on the stand on behalf of the plaintiff, with the original deposition in your hands to which was signed the name Jose Maria Elias, deny that you had ever given any deposition in the case? Answer me yes or no.

A. I do not understand the question well. I do not understand the sense of the question.

Q. (To interpreter.) Explain it to him.

A. (After explanation made to witness by the interpreter.) A. Yes, sir; I deny it, because I did not know that I made declarations there in such terms. At the time I made the declaration I said just what I said yesterday, but it appears different there.

43 Q. Is that your genuine signature to the instrument or deposition which was presented to you yesterday—the name Jesus Maria Elias? [Showing witness a deposition of one Jesus Maria Elias, subscribed and sworn to before the surveyor-general of Arizona on the 30th of November, 1880.]

A. The name is my name, and as I said yesterday I say to-day—in my estimation it is my writing.

Q. Now, is your memory, your knowledge of the facts about which you testified, that Tomas Ortiz claimed this grant in 1843, as accurate as your testimony was yesterday?

A. I say this, so far as my deposition is concerned: That I did not know of any survey of the Sopori in 1848, and to the fact that I state that the signature may be my own, because the form of the writing is like my own.

Q. Now, you state that you saw a man on this grant in '43 and '44 with some cattl' and stock?

A. Yes, sir.

Q. What were you doing down there?

A. I was traveling from here to Tubac and to Sopori, where my parents lived.

Q. Did your parents live in Tubac?

A. They lived in Tubac and Sopori.

Q. Was the grant fenced?

A. No, sir.

Q. They were herding cattle all over the country, weren't they?



A. In 1843 and '44 cattle were turned loose everywhere, but in '47 and '49, thereabouts, when the Indians became very bad, cattle were driven towards the interior of the district of Magdalena and were herded in the daytime and put in corrals at night.

Q. In 1849 and '50 did Tomas or Ygnacio Ortiz, either one, live on that grant?

A. No, sir.

Q. Did they live there in '46, '47, or '48?

A. There were some families farming there, as I have stated, but the cattle had already been withdrawn.

Q. Was permitted to stay there in 1846, '47, '48, during the Apache trouble?

A. There were very many massacres, and it was dangerous; they were standing them as well as they could, as many others were doing in other parts of the country.

44 Q. That country was occupied and cultivated during the Apache troubles by isolated families, was it not?

A. These settlements were made by the people who by the necessities of making their living had to expose themselves to those dangers.

Q. But they did live there?

A. They lived there for two years; after that they went out.

Q. This man that was there in 1842 & '43, cultivating these lands; did he have his family with him?

A. No, sir; this man had these cattle and his stock.

Q. How long did he stay there with any cattle in 1842 & 1843?

A. I do not know how long he remained there with his cattle. I did not know when those cattle were brought up there. I saw them there, but I did not know how long before I saw them that they had been there.

Q. You never saw them but the one time?

A. No, sir; not only once; I saw them on different occasions, several occasions, as my father's parents lived at Tubac, and my grandmother, and I used to be taken back and forth, and in doing so I passed through the grant.

Q. Your recollection of this occurrence and the cattle on it and the claim of Ortiz to this grant is quite as good as your recollection of the survey of the Sopori grant, as you testified to in 1880?

A. One is as accurate as the others, and I am not putting any weight on my conscience in so declaring, with the understanding that my declarations concerning the Sopori are to the effect that I did not see any of the surveys being made there.

Q. That you are certain of now?

A. Yes, sir.

Q. Didn't you testify in the Sopori case, on the 24th day of November, 1880, before the United States surveyor-general, John Lawson, at which the following question was asked: "Question. Do you know when the said rancho was measured, in pursuance of the alleged proceedings under the Mexican Government for title?—Answer. I do; it was measured about . . ."

45 Answer. No, sir; I have not given such testimony.

Witness excused.

Mr. FORD. Plaintiff offers in evidence document endorsed "Dereignment of title to the Canoa grant, containing an abstract of the convey-

ances conveying the title to Maish and Driscoll, the petitioners to said grant."

To which it is stipulated may be received in evidence in lieu of the original deed.

By Mr. REYNOLDS. Yes; unless I find some of them have not been properly acknowledged so as to convey the title.

Mr. FORD. Certainly.

(Said document was thereupon marked "Exhibit J.")

By Mr. FORD. Offer in evidence a translation of a document, which translation it is admitted is a true translation of the original document which exists among the records of the treasurer-general of the State of Sonora, at Hermosillo, Sonora, and which is on the proper stamp paper and addressed to the treasurer-general and signed by Francisca Fernandes, widow of Captain Francisco Villaescusa, and Jose Elias, agent of Tomas Ortiz.

(Said document was thereupon marked "Exhibit K.")

We also offer in evidence the certificate referred to by Jose Toribio Minendes.

(Said document was thereupon marked "Exhibit L.")

We also offer in evidence a letter signed by Tomas Ortiz and addressed to his nephew, Jose Elias, dated April 20, 1853.

(Said document was thereupon marked "Exhibit M.")

And the petitioners rest.

46 For the United States:

By Mr. REYNOLDS. I desire to offer in evidence, and will have copies made, of a deposition of Jose Maria Elias in the Sopori Case, taken before the surveyor-general on the 29th day of November, 1880, and subscribed and sworn to before John Wasson, United States surveyor-general, with the seal of his office.

And the Government rests.

At this point court adjourned until to-morrow morning, at 10 o'clock.

#### WEDNESDAY MORNING, April 3, 1895.

By Mr. LINES. On behalf of the Sopori Company, who claim title to the Canoas grant by purchase, I wish to offer a few documents, if the court please.

I understand that the grant, title, and translation thereof have been offered in evidence.

I desire to offer, with the consent of Mr. Ford, a letter from Thomas Robinson to J. R. Bartlett, dated July 8, 1857, transmitting the original title papers.

(Said document was thereupon marked "Exhibit BB.")

Also letter from Surveyor-General John Wason to Edward M. Sheperd, attorney for the Sopori Land & Mining Company, dated December 16, 1880, stating, among other things, that he intended to make a supplemental report on the Sopori, but this report has not been filed, so far as can be found in the surveyor-general's office.

47 By Mr. REYNOLDS. The Government was not a party to this and objects to it, and insists that what the surveyor-general was going to do is absolutely incompetent and immaterial.

No ruling.

(Said document was thereupon marked "Exhibit CC.")

We offer the original deed from Ygnacio Ortiz to Francisco Villacusa, dated February 9th, 1849, for one-half of the Canoa ranch.

Mr. REYNOLDS. I object to the introduction of this deed as not properly acknowledged.

Mr. FORD. I object to it as not properly executed; not complying with the law with reference to the transfer of real estate.

(Said document was thereupon marked "Exhibit DD.")

By Mr. LINES. Also offer certificate of Matias Moran, notary public, dated June 4th, 1881.

By Mr. FORD. Objected to as incompetent, not being authorized by law and not being the proper way to prove signature.

(Said document was thereupon marked "Exhibit EE.")

By Mr. LINES. I also offer a certificate of Matias Moran which is an acknowledgment of deed of Juan Moreno as executor of will of Francisco Villacusa.

By Mr. FORD. Objected to as incompetent, for the reason that a Mexican notary public has no authority to certify a document so as to make it available and competent under the laws of the United States.

(Said document was thereupon marked "Exhibit FF.")

By Mr. LINES. Next, copy of deed of December 11th, 1854, from Tomas Ortiz to Fernando Rodriguez for one-half of the Canoa grant.

By Mr. FORD. I object to it because it is incompetent, being a copy and not an original.

48 (Said document and translation of same was thereupon of-marked "Exhibit GG.")

Mr. LINES. Also offer copy of deed executed June 2, 1860, from Sylvestre Mowry, as attorney of said parties, among others Maria Astiazaran, transferring to the Sopori Land and Mining Company entire interest in the Canoa grant.

By Mr. FORD. Objected to because it is a copy and not the best evidence.

(Said document was thereupon marked "Exhibit HH.")

By Mr. LINES. I next offer a copy of a deed dated June 7th, 1866, from the Arizona Land and Mining Company to the Sopori Land and Mining Company for their interest in the Canoa grant.

By Mr. FORD. Objected to because it is a copy and not the best evidence.

(Said document was thereupon marked "Exhibit II.")

Case closed.

Argument by Mr. Ford for the petitioners. Mr. Reynolds for the United States.

Mr. Lines was given a reasonable time within which to file a brief on behalf of the Sopori Land and Mining Company.

I hereby certify that the above and foregoing twenty-seven (27) pages contain a full, true, and correct transcript of the evidence offered as stated, and the proceedings had upon the hearing of this cause, to wit, the case of Maish & Driscoll against the United States, involving the title to the property claimed as the San Ygnacia de la Canoa grant, in the Territory of Arizona.

LYMAN F. PARKER, Jr.,  
Official Stenographer.

The part of Mr. Ygnacio Ortiz was sold to Captain Francisco Villascusa, according to the deed attached to the original at the conclusion.

B. (Seal.)

Titulo of grant issued in favor of Messrs. Tomas and Ygnacio Ortiz of four sitios of land, which embrace the place called San Ygnacio de la Canoa, in the jurisdiction of the presidio of Tubac and district of Ures.

50 No. 3475.

Third seal.

(Seal.)

Four reales.

Years of 1848

and 1849.

Furnished according to the articles 42 and 43 of the general decree of November 23, 1836, and the supreme disposition of the State government, dated February 10, 1848.

Copied from page 2 of the respective book.

J. M. Parra.

M. Monteverde.

Antonio Teran y Peralta, treasurer-general, empowered by the free and sovereign State of Sonora.

Inasmuch as article 11 of the general sovereign decree No. 70, dated August 4, 1824, conceded to the States the revenues which in said law the national Government did not reserve to itself, one of them being those of the lands of their respective districts, which therefore belonged to them, for the disposition of which the honorable congress of Sonora and Sinaloa passed the law No. 30, of May 20, 1825, as well as subsequent legislatures passed other decrees in the premises, whose dispositions are contained in sections 3, 4, 5, 6, and 7, of chapter 9, of the organic law of the treasury No. 26, dated July 11, 1834, said mentioned sale of lands being assigned anew to the State, which has continued and will continue to collect revenues (or taxes) by virtue of the general law of classification, dated September 17, 1846; and Messrs. Tomas and Ygnacio Ortiz, the former a resident of Tucson, and the latter of Tubutama, having petitioned this treasury for a grant of four sitios for the raising of cattle and horses, situated in the place called San Ygnacio de la Canoa, in the jurisdiction of the district of this capital, which sitios were surveyed in the year 1821 by the surveyor, Mr. Ygnacio Elias Gonzales, the corresponding proceedings were instituted literally as follows:

51 SENOR GOVERNOR INTENDANT:

Tomas and Ygnacio Ortiz, residents of the military post of Tubac, before you appear with due respect and say that in a northerly direction from said post, at a distance of about five leagues, there is situated the place called La Canoa, and we being possessed of some agricultural chattels, and having no place upon which to maintain them,

we register in the royal name of S. M. (L. D. G.) four sitios of land, which we propose to stock with cattle and horses, offering

2.

2.

No. 11025.

Fourth seal.

(Seal.)

One real.

(Same formula as before.)

to pay the just price at which they may be appraised; therefore we humbly pray and petition that you will be pleased to order, if you think fit, that the commanding officer of this military post proceed to the survey of the registered land, and take the other steps necessary for obtaining title and confirmation. We swear to be acting in good faith, etc.

Tubac, September 6, 1820.

TOMAS ORTIZ.

YGNACIO ORTIZ.

ARIZPE, May 29, 1821.

Presented and admitted without prejudice to any third party who may have a better right. The commanding officer of the company of Tubac will proceed to the survey of the land which the petitioner registers, calling the adjacent neighbors, and will appoint expert appraisers, who shall fix a just price, which shall be called out at auction for thirty days, and he shall solicit bidders and take all the necessary steps to bring the proceedings into such a shape as to present them to me in this special court, that the corresponding title may be issued to him.

CORDERO.

Act of compliance.

TUBAC, July 7, 1821.

The commands contained in the foregoing order of Brigadier Antonio Cordero, governor and intendant of these provinces of Sonora and Sinaloa, will be complied with, and upon summoning the interested parties and adjacent neighbors, if such there be, and accompanied by the necessary officers who will be appointed, I shall proceed to the place called La Canoá in order to carry out the measurement of the four sitios registered by Tomas and Ygnacio Ortiz.

Ygnacio Elias Gonsales, lieutenant commanding and subdelegate of the military post of the company of Pimas at Tubac, by these presents so determined, ordered, and signed with the necessary witnesses with whom he acts in the absence of a notary public, there being no such officer within the limits of this jurisdiction.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

Notification to the parties.

On the same day, month, and year, I, the above-mentioned lieutenant commanding, Tomas and Ygnacio Ortiz being present, gave them notice

and communicated to them the foregoing order, of which they declared themselves informed, and considering themselves summoned they signed here with me and the witnesses in the customary form which I hereby certify.

YGNACIO ELIAS GONSALES.  
TOMAS ORTIZ.  
YGNACIO ORTIZ.

Witness: PEDRO RAMIRES.

Witness: JOSE MARIA SOTELO.

#### Appointment of officials, their acceptance and oath.

At the above-mentioned military post and company of Pimas at Tubac, on the said day, month, and year, I, the said commandant, in order to proceed to the measurement of the registered land and to the appointment of the necessary officials, appointed as counter the lieutenant of the presidio of Tucson, Manuel de Leon; as marker, Jose Antonio Figueroa, and as measurers Messrs. Juan Jose Oroasco and Manuel Castro, all residents of said Tubac, who, being present, accepted said appointment, each taking the usual oath in due form to act well and truly in their  
53      respective capacities without deception, fraud, or pretense, according to their true knowledge and understanding, and those who knew how signed here with me, and for those who did not, I signed, with the necessary witnesses, in the customary form, to which I certify.

YGNACIO ELIAS GONSALES.  
MENUEL DE LEON.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

#### View and inspection of the land.

On the ninth day of July, 1821, being at the place called La Canoa, accompanied by the interested parties, the appointed officials, and customary witnesses, I ordered that an inspection and examination of the registered land should be first made, looking it over carefully in both directions (length and width), and after having examined it well I found it to be a tract containing a vast body of level ground, through the midst of which the river of this military post runs, although without water, there being many sandy places which interrupt the current at a distance of half a league from said post; and water runs in the river bed only during the rainy season when the rains are very heavy, and as soon as the rains stop the water ceases to flow in the river. Its vast extent is covered with different shrubs, as mesquites, China trees, tamarics, palo verde, giant cactus, and very few cottonwoods and willows. It contains pasture

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(Seal.)

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within all its circumference, although not in great abundance, and also some bunch grass, called sacaton, only along the low places, and I consider it may be of some utility for the raising of cattle and horses by



putting upon it a well with its corresponding stone cisterns and drinking troughs, which well can be constructed at the place callen La Canoa, where it is reported that water may be obtained at all times by digging in the dry river bed to a short depth. All of which is hereby submitted and certified by me together with the customary witnesses.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

### Survey.

At the place of La Canoa (to which the name of San Ygnacio was given), on the 10th day of the month of July, 1821, I, the said lieutenant commanding and subdelegate of the military post and company of Pimas at Tubac in order to begin the survey of the land registered by Tomas and Ygnacio Ortiz of this place, delivered a well twisted and stretched cord to the appointed officials, and also a Spanish vara, whereupon, in my presence, there were measured

(Seal.)

on said cord fifty usual varas; this being concluded, there was tied to each end a wooden peg, and being on the spot which the interested parties had designated as a centre, and which was the very place called San Ygnacio de la Canoa, they went on measuring and mounting in a northerly direction upon the public road leading towards the presidio of Tucson, three hundred and seventy-eight cordeles, when they reached a place called Saguarito, where there stands a plant of that name, which remains as a boundary until a suitable monument can be erected; it bounds on this side for a distance of about five leagues on the mission of San Xavier del Bac. From this place they took a westerly direction and went on measuring and counting fifty cordeles, which brought them to a hill with many black rocks, standing alone, whose brow is covered with giant cactus and palo verde trees; on its right there stands, a short distance from it, a small and very low hillock, and on the top of the aforementioned hill I ordered a pile of stones to be placed as sign for a monument. Having returned to the boundary mark of the said Saguarito, they started from it, measuring and counting in an easterly direction, fifty cordeles, which brought them on the same low ground to a spot fronting the point of the mountain called "Sierrita del Puerto de los Muchachos," where a cross was erected as a sign for a monument. The survey of this side was thus finished together with the establishment of its corresponding corners; and having returned to the centre the cordel was stretched in a westerly direction, and they went measuring and counting along a canada facing the "Sierrita de la Tinaja," fifty cordeles, which brought them to a little knoll on the right side of the said canada, upon which was placed a pile of stones as a sign for a monument. Having

returned to the centre and taking an easterly direction, they started out measuring and counting again, fifty *cordeles*, at the end of which they arrived at a vast low table-land, very even and flat, covered only with low grass, in front of which the Santa Rita Mountains begin to slope, there being at the right hand side a canon which extends towards the said mountains. Here I ordered another pile of stones to be placed as a sign for a monument. With this the survey was suspended for that day, it being now sunset, to be continued on the following day. Thus I state, hereby, and with me signed the interested parties who could write, together with the measuring officials and witnesses, to all of which I hereby certify.

YGNACIO ELIAS GONSALES.  
TOMAS ORTIZ.  
YGNACIO ORTIZ.  
MANUEL DE LEON.

Witness: JOSE MARIA SOTELO.

Witness: PEDRO RAMIRES.

#### Continuation of survey.

At the above-named place of San Ygnacio de la Canoa, on the eleventh of the said month and year, I, the said lieut'ant commanding, in order to continue the survey suspended on the preceding day, accompanied by the interested parties and appointed officials, being at the place  
56 which had been designated as the centre, a southerly direction was taken along the public road, on which they went measuring and counting twenty-two *cordeles*, which brought them against the boundary line of the measurements established by the military post and company of Pinas at Tubac, where I ordered a cross to be painted, which was done upon a mesquite tree, as a sign for a monument. From here a westerly direction was taken, and they went on along said line measuring and counting fifty *cordeles*, which brought them to some low hills, where a pile of stones was placed as a monument; and having returned to the cross painted upon the mesquite tree they stretched the cord in an easterly direction, and started out measuring and counting again fifty *cordeles*, which brought them to a low, stony table-land facing the Santa Rita Mountains, by the canon known as the "Madera" (the lumber canon), upon the same line of boundary measurements established for the said post of Tubac. From all these measurements it follows that the land is bounded on the north for five leagues, more or less, by the Mission of San Xavier del Bac; on the west only by land inhabited by friendly people allied to us; on the east by land inhabited by the hostile Apaches, and on the south it is bounded by the boundary line of the military post of Tubac; and I, the said lieutenant commanding, entered these proceedings upon the record which exists in these archives under my charge, where are stated and described the said limits of the said Tubac, so that they should suffer no loss or damage, and thus it was established. Thus the said measurements were entirely concluded, giving as a result four sitios for the raising of cattle and horses, registered by Tomas and Ygnacio Ortiz, of this place, and they, considering themselves as having

received the surveyed land, and being satisfied with the said survey, were notified that they should conveniently

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mark their boundary lines with monuments of lime and stone as the law demands. And according to law they signed with me, together with the appointed officials and witnesses who could write, in due form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

TOMAS ORTIZ.

YGNACIO ORTIZ.

MANUEL DE LEON.

Witness: PEDRO RAMIRES.

Witness: JOSE MARIA SOTELO.

## Appraisement.

Then I, the same commanding officer, in order to have the land appraised and valued which had been surveyed in favor of Tomas and Ygnacio Ortiz, of this place, consisting of four sitios for the raising of cattle and horses, said that I appointed and I did appoint as such appraisers Lieutenant Manuel de Leon and the resident citizen Juan Jose Oroasco, who were the surveying and counting officials of said land, which they have seen well and examined particularly; and they being present, I communicated to them said appointment which they accepted, and each one made oath in due form well and truly to discharge his duty in this matter without any deception, fraud, or pretense, and according to the rules existing in such matters; and from their examination they said that each sitio should be valued at thirty dollars, taking into consideration that none of them had running water or natural standing water, but that water facilities might be obtained by means of a well; and when I had read to them this statement they affirmed it, ratified it, and signed it with me, those who could write, together with the witnesses, in due form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

MANUEL DE LEON.

Witness: JOSE ANTONIO SOTELO.

Witness: PEDRO RAMIRES.

58

## Order for auction.

At the military post of Tubac, on the 12th day of July, 1821, I, the said lieutenant commanding, having returned to the said post, in view of the foregoing proceedings of survey and appraisement of the lands at the place of San Ygnacio de la Canoa, consisting of four sitios for the raising of cattle and horses, ordered, that said sitios should be put up at auction for thirty consecutive days according to the order issued by Brigadier Antonio Cordero, intendant of the provinces of Sonora and Sinaloa,

admitting at said auction the over and outbidding that might take place; and by these presents I so decreed, ordered, and signed with the lawful witnesses in the usual manner, which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

#### First auction.

At the military post of Tubac, on the 14th day of July, 1821, I, the said lieutenant commanding and subdelegate of the military post of the company of Pimas at Tubac, caused by the sound of the drum many people to assemble on the public square of the said post, and ordered Reyes Cruz, who acted as auctioneer, to call out in presence of all the bystanders in a loud and clear voice, "The lands of the place called Sgan Ygnacio de la Canoa, situated within the jurisdiction of the said post of Tubac, and consisting of four sitios for the raising of cattle and horses, surveyed in favor of Tomas and Ygnacio Ortiz, of this town, and appraised at one hundred and twenty dollars, being at the rate of thirty dollars for each sitio, are now for sale on account of the public treasury. Whoever wishes to bid, let him come forward and make his bid in due form before me, where every bid will be admitted." And no bidders having appeared, I therefore make this statement with the lawful witnesses in due form, which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

59 2d. At the same post of Tubac, on the 15th day of said month and year, another auction, equal in everything and with the same formalities as the former, was held; and no bidder having appeared, I made a statement thereof, which I signed with the lawful witnesses, which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

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(Seal.)

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3d. At the same post, on the 16th day of the same month and year, a like auction was held; and no bidder having appeared, I made a statement thereof, which I signed with the lawful witnesses, which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

4th. At the same post, on the 17th day of the said month and year, another auction was held; and no bidder having appeared, I made a state-

ment thereof in the usual form, which I signed with the lawful witnesses, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

5th. At the said post, on the 18th day of the same month and year, a like auction was held; and there appearing nobody to bid higher, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

6th. At the said post, on the 19th day of the said month and year, another auction was held; and no bidder having appeared, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

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(Seal.)

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7th. At the aforementioned post, on the 20th day of the said month and year, a like auction was held; and no bidder having appeared, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

8th. At the aforementioned post, on the 21st day of the said month and year, another auction was held; and no bidder having appeared, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

9th. At the said post, on the 22nd day of the said month and year, a like auction took place; and no bidder having appeared, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

10th. At the said post, on the 23d day of the said month and year, another auction was held; and no bidder appearing, I made a statement

thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

11th. At the said post, on the 24th day of the same month and year, a like auction was proceeded with; and no bidder having appeared, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

61 12th. At the said post, on the 25th day of the said month and year, a like auction was held; and no one appearing to put in a higher bid, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

13th. At the aforementioned post, on the 26th day of said month and year, another auction was held; and no bidder appearing, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

14th. At the said post, on 27th day of the said month and year, another auction was held; and there appearing no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

15th. At the said post, on the 28th day of the said month and *and* year, a like auction was held; and there being no one to put in a higher bid, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

16th. At the same post, on the 29th day of the said month and year, another auction was held; and there appearing no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: JOSE ANTONIO SOTELO.

Witness: PEDRO RAMIRES.



62 17th. At the post, on the 30th day of the said month and year, another auction was proceeded with; and there having appeared no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

18th. At the said post, on the 31st day of the said month and year, another auction was held; and there appearing no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

19th. At the same post, on the 1st day of August of the said year, a like auction was held; and no bidder having appeared, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

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(Seal.)

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20th. At the same post, on the 2d day of the said month and year, another auction was held; and no bid being offered, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

21st. At the said post, on the 3d day of the same month and year, another auction was proceeded with; and there having appeared no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

63 22d. At the aforesaid post, on the 4th day of the same month and year, a like auction was held; and there being no one to put in a higher bid, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

23d. At the said post, on the 5th day of the said month and year, another auction was held; and no bidder appearing, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

(Seal.)

24th. At the said post, on the 6th day of the same month and year, a like auction was held; and bidder appearing, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

25th. At the same post, on the 7th day of the said month and year, another auction was held; and there appearing no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

26th. At the same post, on the 8th day of the said month and year, a like auction was held; and there appearing no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

64 27th. At the aforementioned post, on the 9th day of the said month and year, another auction was proceeded with; and there being no bidder present, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

28th. At the same post, on the 10th day of said month and year, another auction was held; and there being no one to bid higher, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTO. SOTELO.

29th. At the said post, on the 11th day of the said month and year, another auction was held; and there appearing no bidder, I made a statement thereof, which I signed with my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

30th. At the said post of Tubac, on the 12th day of the month of August, 1821, I, the said commandant and subdelegate of the military post of Tubac, caused many people to be assembled by the sound of the drum on the public square of the said post, and in the presence of all the bystanders ordered the auctioneer to call out in a loud and clear voice: "The lands of the place called San Ygnacio de la Canoa, situate within the jurisdiction of the said post of Tubac, and consisting of four sitios for the raising of cattle and horses, registered in favor of Tomas and Ygnacio Ortiz, of this place, and appraised at one hundred and twenty dollars, being at the rate of thirty dollars each sitio, are now offered for sale on account of the public treasury. Whosoever desires to make a bid, let him come forward to make it in due form before me, where the bid he may make will be admitted;" at which time  
65 appeared in person the Reverend Father Fray Juan Bano, agent of the mission of San Xavier del Bac, together with Xavier Ygnacio Sanches and Francisco Flores, residents of said village, the former overbidding the fixed price in the name of the other residents of the said village, and the same thing being done by the parties who registered the land; they alternately bid over the appraised value of one hundred and twenty dollars, until they arrived at the sum of two hundred and ten dollars, this latter bid being made by the said agent; and there being no one to overbid him, the auctioneer at last said: "For the first time, for the second time, for the third, going, going, gone to the reverend father minister of San Xavier del Bac and the citizens whom he represents, as he states."

In witness whereof the parties registering the land and the said minister signed the proceedings, together with one of those who accompanied him, the other being unable to write, with my legal witnesses, in the absence of a notary, to all of which I certify.

YGNACIO ELIAS GONSALES.

FRAY JUAN BANO,

*Minister U. S. M. of the Mission del Bac.*

XAVIER YGNACIO SANCES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

#### Order for proving capacity.

At the military post of Tubac, on the 13th day of the said month and year, I, the said subdelegate, inasmuch as these proceedings of survey, appraisement, and auction were concluded, and nothing was lacking except the notification of paying capacity to be given by the interested parties by the three witnesses, as is the usual custom, ordered them to be notified that they should attend to the matter, so that the investigation

might be proceeded with; of which I made a statement, with my lawful witnesses, in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

66

Notification.

Immediately, there being present the reverend father minister of the village of San Xavier del Bac, and the two citizens who accompanied him from said town, I gave them notice of the foregoing order, and in obid'ence thereto said minister presented the witnesses as required of him, and signed with me and my lawful witnesses in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

FATHER JUAN BANO,

*Minister P. S. M. of San Xavier del Bac.*

XAVIER YGNACIO SANCHES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

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(Seal.)

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Declaration of the first witness.

At the same military post of Tubac, on the 13th day of the month of August, 1821, I, the said lieutenant commanding and subdelegate of the said post, in obedience to the foregoing order, and the father minister, Fray Juan Bano, having presented as a witness Jose Antonio Oroasco, of this town, administered to him the oath, which he took in the name of God our Lord with the sign of the cross, by which he declared that he would tell the truth about whatever he might know and be interrogated concerning; and he being asked whether the father minister of San Xavier del Bac, Fray Juan Bano, held property of the citizens of said town wherewith to stock the place of San Ygnacio de la Canoa, registered in favor of Ygnacio and Tomas Ortiz and consisting of four sitios, he said that he had property and means to do so; and his declaration being read to him, he declared it to be correct and ratified it. He stated he was fifty years of age, and he not knowing how to sign, I did so for him, with my lawful witnesses, in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

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(Seal.)

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Declaration of the second witness.

Immediately, on the same day, month, and year, appeared Juan Saenz, of this town, the second witness in these proceedings, and I administered to him the oath by God our Lord and the sign of the cross, whereby he

declared that he would tell the truth about what he might know that should be asked him; and being asked if the father minister of the village of San Xavier del Bac held in the name of the citizens of said village the means wherewith to stock the four sitios registered as appears in this proceedings, he said that he had the means to do so and property to stock said lands effectually; and his declaration being read to him, he affirmed and ratified it. He stated his age to be forty-seven years, and not knowing how to sign, I did so for him, with my lawful witnesses, in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

#### Declaration of the third witness.

At the said post, on the same day, month, and year, appeared Guillermo Saenz, a resident of the presidio of Tucson, presented as a witness in this matter, and I administered to him the oath by God our Lord and the sign of the holy cross, by which he declared that he would tell the truth about whatsoever he might know and be asked about; and he being asked the same questions as the preceding witnesses, he stated that the father minister of the village of San Xavier held property and means of the citizens of the said village wherewith to stock the land registered as mentioned in these proceedings; and his declaration being read to him, he affirmed and ratified it. He stated he was forty-nine years of age, and not knowing how to sign, I did so for him, with my lawful witnesses, in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

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#### Conclusion of the proceedings.

At the said post of Tubac, on the same day, month, and year, I, the sub-delegate, these proceedings being now concluded, ordered that their record be forwarded by the monthly mail to the Brigadier Antonio Cordero, Knight of the Plaza of the military order of St. Esmeregildo and Governor Intendant of the provinces of Sonora and Sinaloa, with a summons to the interested parties that they should go themselves to the capital of Arizpe, to be present at the auction and final bidding for of the said lands, which must take place before the Provisional Board (junta provicional) of the capitol. I, the subdelegate, *dox* decreed, ordered and signed.

YGNACIO ELIAS GONSALES.

#### Notification.

Immediately, on the same day, month, and year, there being present the father minister of the village of San Xavier del Bac and the two citizens who accompanied him from said village, I communicated to them the foregoing order, and after acknowledging its contents, the said minister and one of the two citizens signed with me, the other not knowing

how to write; with my lawful witnesses, in the usual form, to which I hereby certify.

YGNACIO ELIAS GONSALES.  
FRAY JUAN BANO,  
*Minister P. S. M. of San Xavier del Bac.*  
XAVIER YGNACIO SANCHES.

Witness: PEDRO RAMIRES.

Witness: JOSE ANTONIO SOTELO.

#### Memorandum.

By official letter of November 9, 1821, this record of proceedings was forwarded to the Governor Intendant of these provinces, and on the same day I gave notice thereof to the interested parties in order that they should without delay in person or by an attorney appear at the capitol of Arizpe to be present at the final auction.

YGNACIO ELIAS GONSALES.

ARIZPE, *December 6, 1821.*

To the Attorney-General of the Treasury (promotor fiscal) BUSTAMANTE.  
To the PROVISIONAL (ACTING) INTENDANT:

The Attorney-General of this Intendencia says that Tomas  
69 and Ygnacio Ortiz filed with your predecessor, Brigadier Antonio Cordero, a request in due form for the registry of the unappropriated land called San Ygnacio de la Canoa, situated within the jurisdiction of the military post of Tubac; and their claim having been admitted, the said intendant gave to the commanding officer and subdelegate judge of said company, Lieutenant Ygnacio Elias Gonsales, the necessary power by virtue of which he proceeded to the respective survey, from which resulted, without any detriment to adjacent neighbors, four

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(Seal.)

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sitios of land for the raising of cattle, which were appraised by intelligent experts in the sum of one hundred and twenty dollars, being at the rate of thirty dollars each sitio, on account of the necessity of putting a well upon them. With this appraisement the said surveyor offered them at auction during thirty consecutive days, on the last of which there appeared the reverend father Fray Juan Bano, minister of the mission of San Xavier del Bac, Ygnacio Sanchez, and Francisco Flores, resident citizens of the same town. In the name of these latter the said minister bid on the said surveyed lands, and as the claimants bid also, they went on overbidding each other until the last bid reached the sum of two hundred and ten dollars, it being made by the said reverend father Fray Juan Bano in the name of the parties he represented. Therefore, there appearing no higher bidder, the commandant and subdelegate judge proceeded to receive competent information of the pecuniary capacity, and it being found that the last bidder holds the property and means of the persons he represents in sufficient quantity to keep the land of San



Ygnacio de la Canoa stocked, therefore the Attorney-General directs that these proceedings be brought before the superior court where such

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(Seal.)

matters pertain, and requests that you order with the summons of the interested parties the three public auctions to take place in due form in this capital; and at the conclusion of the last auction of the said lands that the highest bidder shall pay into the public treasury the original cost at which he obtains them, the half annual charge and customary eighteen per cent, the two per cent exacted by the general law, and three dollars for fees of the auditor's office, so that the record of the proceedings may be brought to a final settlement, giving a certificate for said payment and notifying the Superior Board of the Treasury (*junta superior de hacienda*) thereof for its approval or such decision as it may see fit to give. However, notwithstanding this my opinion, you will act in the matter as you see fit.

Arizpe, December 9, 1821.

FRANCISCO PEREZ.

ARIZPE, *December 13, 1821.*

As it appears to the attorney-general from his foregoing answer, the three public auctions and final sale of the lands referred to in these proceedings will be proceeded with upon summoning the interested parties. The provisional intendant of this province so decreed, ordered, and signed with lawful witnesses in the absence of a notary.

BUSTAMANTE.

Witness: JOSE MARIA MENDOZA.

Witness: JOAQUIN ELIAS GONSALES.

Immediately there appeared Ramon Muños, agent of the Reverend Father Fray Juan Bano, and he was notified of the answer from the treasury and the foregoing order, which notification he acknowledged, and, considering himself summoned, he signed with the intendant and lawful witnesses in the absence of a notary.

BUSTAMANTE.

RAMON MUÑOS.

Witness: JOSE MARIA MENDOZA.

Witness: JOAQUIN ELIAS GONSALES.

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1st auction.

In the city of Arizpe, on the 13th day of December, 1821, there met as a board of auction the provisional intendant, as president, and the other members that compose it, to hold the first auction of the lands to which these proceedings refer, and they caused the people to be assembled at this office by the beating of the drum, and many persons gathered at the office of the intendant, when the auctioneer, Loreto Salcido, in their presence was ordered to ask for a bid, which he did in a loud and clear

voice, saying: "Here before this board of the treasury are being sold four sitios of public land for the raising of cattle situated at the place called San Ygnacio de la Canoa, within the jurisdiction of the military post of Tubac, surveyed in favor of Tomas and Ygnacio Ortiz, residents of that same town, and appraised in the sum of one hundred and twenty dollars, being at the rate of thirty dollars for each sitio, it being necessary to dig a well to make the land useful. Whosoever wishes to make a bid upon this land, let him come forward and do so in the manner established by law before this board, where his bid will be heard, notice being given that the Reverend Father Fray Juan Bano, minister of the mission of San Xavier del Bac, in the name of Ygnacio Sanches and Francisco Flores, resident citizens of the same town, had bid for said land the amount of two hundred and ten dollars; and with the understanding that on the third auction, which is to take place on the day after to-morrow, the sale shall be settled upon the highest bidder." As no bidder appeared, the board adjourned, and the minutes were signed by the president and members of this board.

ESCALANTE.  
PEREZ.  
BUSTAMANTE.  
FUENTE.

#### 2d auction.

At the same city, on the 14th day of the same month and year, the second auction took place of the public lands referred to in these  
72 proceedings, with the same formalities as on the preceding day, and there appearing no bidder, the minutes were signed by the gentlemen composing this board.

ESCALANTE.  
PEREZ.  
BUSTAMANTE.  
FUENTE.

#### 3d auction.

At the city of Arizpe, on the 15th day of December, 1821, there being assembled as a board of auction the president and members composing the same, for the purpose of holding the third and last auction and finally to dispose of the lands to which these proceedings refer, the same statements were made by the auctioneer as on the first auction, with only this difference, that the public were notified that this would be the final sale. Then and there appeared Manuel Escalante, and in the name of and as lawful attorney for Tomas and Ygnacio Ortiz, residents of Tubac, he

(Seal.)

raised the bid, and as Ramon Muños did the same in the name of the reverend father Juan Bano, the two attorneys went on bidding against each other until the last bid reached the sum of two hundred and fifty dollars, made by the said Manuel Escalante in the name of the parties whom he represented; and the bell having now sounded twelve o'clock

of this day, and there appearing no higher bidder, the auctioneer said for the last time: "For the first, for the second, for the third time, going, going, gone to Tomas and Ygnacio Ortiz, to whom may it be of benefit." In this manner these proceedings terminated, the four sitios of unappropriated land composing the place called San Ygnacio de la Canoa, to which this record refers, being solemnly sold to those who originally registered them. In witness whereof this document was signed by their empowered attorney, Manuel Escalante, and the president and members of this board of auction.

73

(Seal.)

ESCALANTE.  
PEREZ.  
BUSTAMANTE.  
FUENTE.  
MANUEL ESCALANTE.

ARIZPE, *December 15, 1821.*

The record of these proceedings is to be transcribed, and, with the authorized and full testimony of the higher decisions, according to law, to be delivered to the attorney, Manuel Escalante, in order that within three days he may take such steps as he may deem proper in this matter, furnishing the name of a person in Mexico licensed and accredited to bring it before that court. The provisional intendant does decreed, ordered, and signed, with his lawful witnesses, in the absence of a notary.

BUSTAMANTE.

Witness: JOSE MARIA MENDOZA.

Witness: JOAQUIN ELIAS GONSALES.

#### Memorandum.

On the same day this record, transcribed upon eighteen legal sheets, was delivered according to the foregoing order.

#### To the PROVISIONAL INTENDANT:

I, Manuel Escalante, a resident of this city, in the name of and as attorney Tomas and Ygnacio Ortiz, appear before you and say that in order to attend promptly and faithfully to this matter and to the legal document which has been delivered to me, I desire to state that, inasmuch as everything has been done according to the rules and the superior courts in the matters referred to in said document, I am well satisfied with their present state of final sale, and I only request that you will by the shortest means possible have the matter brought before the Supreme Commission of Public Lands (Junta Superior de Hacienda) that I may obtain the corresponding title of grant and confirmation, which I hereby

74 seek to obtain, to the four sitios of land which compose the place called San Ygnacio de la Canoa, in favor of the parties whom

I represent, being from this moment ready to appoint in Mexico a licensed and accredited person to bring the matter before that court. Therefore I respectfully beg and entreat you to act upon this, my

request, as thereby you will benefit those whom I represent; in all of which I swear that I act in good faith.

MANUEL DE ESCALANTE.

Final judgment.

At the city of Arizpe, on the 15th day of December, 1821, the Provisional Intendant of these provinces of Sonora and Sinaloa, Ygnacio Bustamante, having examined all these proceedings of survey, appraisal, public sales, auctions, and final sale of the unappropriated lands of the place called San Ygnacio de la Canoa, situated within the jurisdiction of the military post of Tubac, and comprising four sitios for the raising of large cattle and horses, in favor of Tomas and Ygnacio Ortiz, residents of the same, the answer being given by their attorney as heretofore written, and having examined everything pertaining to the premises, said that declaring, as he hereby declares, all the steps taken in the matter to be correct, sufficient, and in accordance with the rules as laid down by the superior decrees, and admitting, as he from this moment admits, the said Tomas and Ygnacio Ortiz for adjustment with the national Treasury of the said vacant land, he has to order, and does order, that Don Manuel Escalante, attorney, be notified to pay into the national Treasury of this city the sum of two hundred and seventy-two dollars and six reales, as follows: two hundred and fifty dollars as principal, this being the amount of the bid at which they obtained the said land at the final auction; fourteen dollars and six reales for the corresponding half annual charge and its eighteen per cent; five dollars, being the respective two per cent exacted by the general law, and the

75 remaining three dollars for fees of the auditor's office of the same branch of the Government; and as soon as the said payment shall be made a certificate shall be given thereof and a record of the proceedings shall be forwarded to the Supreme Commission of the Public Lands (Junta Superior de Hacienda) for its approval, or whatever decision it may give. And by this order it was so decreed, ordered, and signed, with the lawful witnesses, in the absence of a notary.

YGNACIO DE BUSTAMANTE.

Witness: JOSE MARIA MENDOZA.

Witness: JOAQUIN ELIAS.

Immediately there was present the empowered attorney, Manuel Escalante, and he was personally notified of the foregoing order and took knowledge thereof and signed with the intendant and lawful witnesses, in the absence of a notary.

BUSTAMANTE.

MANUEL DE ESCALANTE.

Witness: JOSE MARIA MENDOZA.

Witness: JOAQUIN ELIAS.

Provincial Board of the Treasury at Arizpe, December 17, 1821.

(Seal.)

Hereby are declared as legally, publicly, and solemnly sold the four sitios of vacant land which comprise the place San Ygnacio de la Canoa,

situate within the jurisdiction of the military post of Tubac, at the meeting of the board of auctions of this city on the 15th of the current month, in favor of Tomas and Ygnacio Ortiz, of the same Tubac, for the amount of two hundred and fifty dollars; and therefore the Supreme Commission of Public Lands (Junta Superior de Hacienda) shall by this document be informed of said fact for its approval or such resolutions as it may determine. Thus it was resolved and signed by the president and members of this provincial board.

ESCALANTE.  
PEREZ.  
BUSTAMANTE.  
FUENTE.

76 To the Lieutenant Intendant of the Treasury, provisional accountant, Attorney-General. Arizpe, December 17, 1821. The above resolution of the provincial Board of this Intendencia shall be complied with.

BUSTAMANTE.

The provincial receivers of the National Treasury of Arizpe and its Province: We certify that on page 39 of the account book of the current year we made the following entry:

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(Seal.)

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December 17.

Half annual charge of lands.

Charged two hundred and seventy-two dollars and six reales paid into this Treasury by Manuel de Escalante, in the name of and as the attorney for Tomas and Ygnacio Ortiz, residents of the military post of Tubac, as follows: Two hundred and fifty dollars as being the principal amount for which this Intendencia sold to them four sitios of vacant land for the raising of cattle, which comprise the tract known as San Ygnacio de la Canoa, situate within the jurisdiction of the said post of Tubac; fourteen dollars and six reales for the half annual charge, and eighteen per cent for their conveyance to Spain; five dollars for the two per cent exacted by the general fund; and the three remaining dollars for the auditor's office of the same branch, as is shown by order No. 34, \$272.6.0.

MANUEL DE ESCALANTE.  
FUENTE.  
ESCALANTE.

And we issue these presents for the knowledge of whomsoever it may concern.

Arizpe, December 17, 1821. Tomas de Escalante. Miguel Maria de la Fuente.

Ures, January 30, 1849. There having presented themselves at this General Treasury, Tomas and Ygnacio Ortiz, brothers, soliciting that a title of land granted be issued to them upon the present record, and having made the corresponding payment of the value of four sitios which comprise the place San Ygnacio de la Canoa according to the certificate which is affixed to page 22 of this record, this

treasury will issue to them the said title which they solicit for their protection. Thus I, the substitute treasurer, decreed, ordered, and signed with my lawful witnesses.

ANTONIO TERAN Y PERALTA.

Witness: JOAQUIN URIAS.

Witness: MIGUEL APALATEGUI.

In this manner the foregoing expediente was brought to a conclusion in every way in accordance with the existing laws and rules regulating such matters, and the record thereof deposited in the archives of the office of this general treasury for perpetual immutability.

Wherefore, making use of the power vested in me by the laws, I hereby, in the name of the sovereignty of the State, grant and confirm title in lawful form of the four sitios of land for raising large cattle and horses comprised in the place called San Ygnacio de la Canoa within the jurisdiction of the district of this capital upon Tomas and Ygnacio Ortiz, to whom I grant, give, and adjudge the said four sitios by way of sale, with all the qualities, stability, and permanence which the laws grant, to hold for themselves, their children, heirs, and successors, with all the ingresses and egresses, uses, privileges, rights, mountains, hills, canons, rivers, valleys,

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(Seal.)

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trees, shrubs, appurtenances, pastures, waters, deposits of water, watering places, reservoirs, ponds, dams, and everything else pertaining thereto; under the precise condition and definite restriction that they must keep

78 said lands of San Ygnacio de la Canoa stocked and in their possession, not allowing them at any time to become abandoned, deserted, or unoccupied; warning being hereby given that if they

should be allowed to become totally abandoned or deserted for the space of three consecutive years, and if any person should register them, proving in that event said facts, they will be declared public lands, and will be adjudged anew to the highest bidder; except, however, as is just, in cases where the abandonment may be caused by well-known hostile invasions and only for such periods as such invasions may last; hereby notifying the said Tomas and Ygnacio Ortiz, their children, heirs, and successors, that they must, in the strictest manner, keep within the limits of the land, its appurtenances, landmarks, and boundary lines, as precisely established in the foregoing statement of survey made in 1821 by the deceased Ygnacio Elias Gonsales; observing and obeying in every respect article sixty-three of the organic law of the treasury number twenty-six, dated July 11, 1834, which puts them under the obligation of maintaining on their boundary lines monuments of lime and stone, under a penalty in case of noncompliance of a fine of twenty-five dollars, which they will have to pay into the common fund; in which case said monuments are to be constructed at the expense of the interested parties. And by virtue of the said power vested in me by the laws in such cases provided, I order and instruct the judges, tribunals, and local authorities now in existence and which may hereafter exist that for the furtherance of the good and prompt administration of justice, and in obedience to



the laws, ordinances, decrees, and regulations referring to the matter, they shall not permit the said Tomas and Ygnacio Ortiz, their children, heirs, and successors, to be in any manner disturbed, harassed, or molested in the free use, exercise, possession, authority, and dominion of the said four sitios of land for the raising of cattle and horses, which are comprised in the said place of San Ygnacio de la Canoa, but they shall take care and carefully watch with the greatest vigilance that the said interested parties be always protected and maintained in the quiet and peaceful possession which is their legitimate right, in order that they may freely sell, exchange, barter, donate, make over, cede, and dispose of said four sitios of land according to their free will and pleasure as proprietary and absolute owners in fee; under which terms I have issued this title of grant in due form of law in favor of the said Tomas and Ygnacio Ortiz, their children, heirs, and successors, delivering to them the said title for their protection, first placing it on record in the corresponding book. Given at Ures, capital of the State of Sonora, on the second day of February, eighteen hundred and forty-nine; authorized and signed by me, the substitute treasurer-general of the same State; sealed with the legal seal in use at this office, and subscribed by my lawful witnesses in the absence of a legal notary.

(Seal.)

Memorandum of corrections: Folio 1, vuelta, otro; folio 7, anunciado; folio 11, doy fe, entre reglones; folio 2, buelta, dia, entre parentesis; folio 4, buelta, quedaron. Vale.

[SEAL.]

ANTONIO T. Y PERALTA.

Witness: JOAQUIN ELIAS.

Witness: MIGUEL APALATEGUI.

This title is recorded on page 75 and the other side of the respective book.

[SEAL.]

TERAN.

Antonio Teran y Peralta, treasurer and constituto of the Free State of Sonora.

I certify that on page 6 of the official account book of charges and items for the present year there exists the following entry:

February 2. Charges on titles of land, thirty dollars, paid into this treasury by Tomas and Ygnacio Ortiz for the cost of the title issued to-day by this treasury of four sitios of land, for the raising of cattle and horses, situated at the place called San Ygnacio de la Canoa, in the jurisdiction of the town of Tubac, in the district of this capital, which were surveyed in their favor in the year 1821 and adjudged to them to-day by this office, as is proven by the respective expediente which exists in the archives of the corresponding branch; and of the said payment this certificate is hereby given to the said interested parties for their protection. \$30.

TERAN.

For myself and in the name of my brother.

TOMAS ORTIZ.

Given in Ures on the second of February, eighteen hundred and forty-nine.

ANTO. T. PERALAT.

(Endorsed:) Case No. 6. File No. 6. In the Court of Private Land Claims. Maish & Driscoll vs. United States. Translation of San Ygnacio de la Canoa grant. Filed in the office of the clerk, Court of Private Land Claims, Jan. 15, 1894. Jas. H. Reeder, clerk; by R. L. Long, deputy.

(Here follows map, marked p. 81.)

82 *Stipulation as to extracts from expedientes at Hermosillo.*

United States Court of Private Land Claims.

MAISH AND DRISCOLL	}	No. 6. San Ygnacio de la Canoa grant.
vs.		
THE UNITED STATES.		

It is hereby stipulated that the catalogue of expedientes of lands of the States of Sonora and Sinaloa, which expedientes exist in the archives of the treasurer-general of the State of Sonora, which catalogue was printed by the State of Sonora at Hermosillo in 1889, contains accurate statements so far as they go as to the facts stated in such statements of the contents of such expedientes; and it is further stipulated and agreed that the following statements concerning the following-named expedientes, which statements are taken from said catalogue, are offered in this case by plaintiffs and shall be included in the transcript of this case if such case should be appealed as part of the evidence of plaintiffs.

MATT. G. REYNOLDS,  
*United States Attorney.*

ROCHESTER FORD,  
*Of Counsel for Plaintiffs.*

TUCSON, ARIZONA, April 5, 1895.

83 Summary or classification of the expedientes existing at Hermosillo, Sonora, Mexico, prepared by Rochester Ford from the official catalogue issued by the State of Sonora of such expedientes. Those marked with a star (\*) are embraced within the notes or report of Ignacio Bonillas, esq., which was offered in evidence. The pages given are those of the official catalogue.

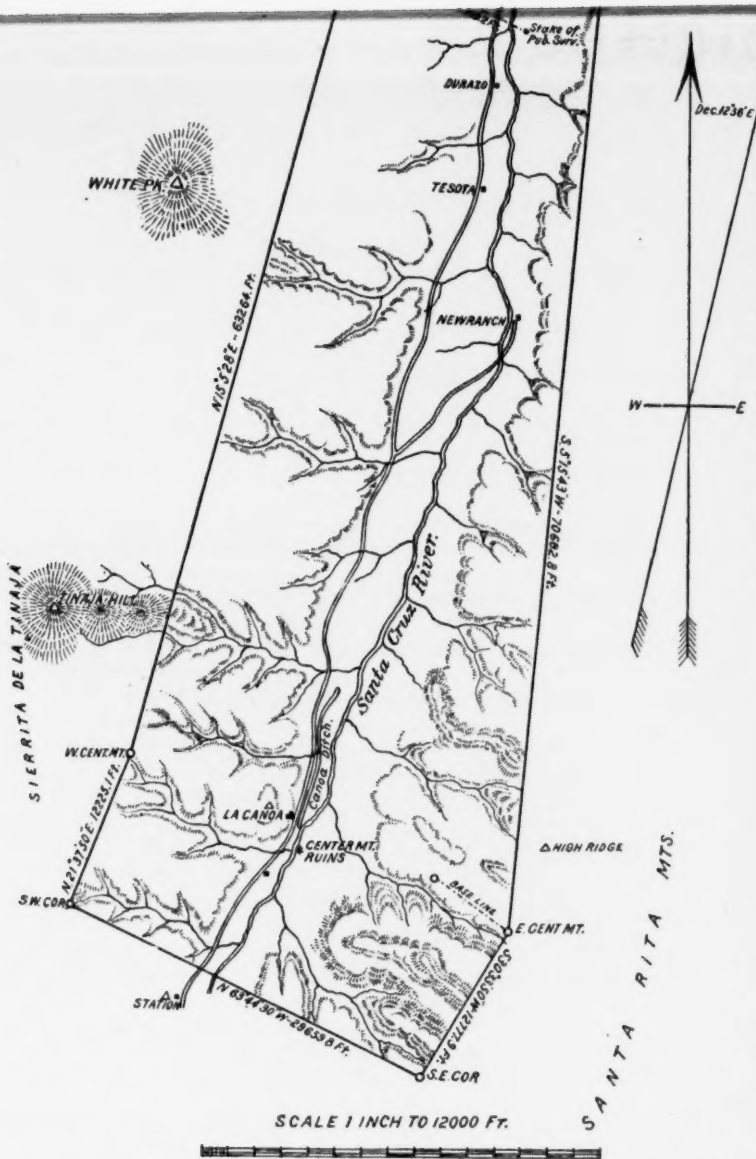
Grants instituted prior to the independence, carried on, confirmed and final title thereon issued by intendentes.

\*Cuchuta. Page 37. Title issued in 1823.

\*Neustra Señora de los Dolores. Page 70. Registered in 1778; title issued in 1824.

Potrero. Page 75. Denounced in 1817; confirmed September 5, 1822.

\*San Elisario (á) El Bamuco. Page 118. Title issued November 12, 1824.



(Endorsed:) No. 6. File No. 20. In the Court of Private Land Claims. Maish & Driscoll vs. The United States. San Ignacio de la Canoa grant. Map of grant. Filed in the office of the clerk, Court of Private Land Claims, March 19, 1895. Jas. H. Reeder, clerk, by R. L. Long, deputy. C. W. Wright, Rochester Ford, attys. for plaintiffs.

2583. (To face page 52.)



Grants instituted prior to the independence, carried on under intendentes, confirmed and final title thereon issued by commissaries general in the name of the Mexican nation.

\*Alamo de Sevilla. Page 8. Registered in 1821; title issued in 1825.

\*Cieneguita. Page 27. Adjudicated in 1825.

\*Cuchilla del Burro. Page 28. Registered in 1817; adjudicated in 1824.

\*Chupisonora, Taray, Punta del agua y Veranito. Page 33. Title issued in 1825.

\*Encinal. Page 43. Denounced in 1817; title issued November 12, 1824.

\*Nuestra Sra. de los Dolores de Cobayma. Page 70. Title issued in 1825.

Ntra. Sra. del Carmen. Page 70. Registered in 1820; title issued in 1824.

\*Pilares. Page 87. Registered in 1821; title issued in 1824.

\*San Juan del Carrizo. Page 107. Denounced in 1818; title issued January 28, 1825.

\*San José de la Noria. Page 119. Registered in 1812; title issued in 1824.

\*San Jorge de Baborocagui. Page 124. Registered in 1821; title issued in 1825.

84 \*San José de Caguinagua. Page 124. Registered in 1795; title issued in 1825.

\*San José de Tutugueche. Page 125. Registered in 1813; title issued in 1824.

\*San Rafael de la Zanja. Page 141. Registered in 1821; title issued in 1825.

\*San Juan Bautista de Cochorime. Page 133. Adjudicated in 1824. S. José de Sonoyta. Page 142. Title issued in 1825.

\*Tres Marias. Page 147. Registered in 1820; title adjudicated in 1824.

Grants instituted prior to the independence, confirmed and final title thereon issued by State authorities.

Animas. Page 4. Registered in 1814; title delivered in 1832.

Agua de las Mesteñas. Page 10. Registered in 1788; title delivered in 1835.

Chanate y Bamori. Page 26. Registered in 1822; title issued in 1833.

Carrizal y San Diego. Page 34. Registered in 1800; title issued in 1834.

Cuchuberachi. Page 38. Denounced in 1822; title issued in 1834.

Icuribampo. Page 51. Registered in 1810; adjudicated in 1826.

Lo de Rodriquez. Page 55. Registered in 1801; title issued in 1834.

Nuestra Señora de la Asunción del Taray. Page 68. Registered in 1805; title issued in 1833.

Ntra. Sra. del Refugio (á) Los Yaquis. Page 70. Registered it 1820; adjudicated in 1834.

Palos Blancos. Page 77. Registered in 1805; title issued in 1833.

Potrerrillo. Page 78. Registered in 1813; title issued in 1850.

Palmar. Page 82. Registered in 1781; title issued 1848.

Pilares (á) Rancho viejo. Page 82. Registered in 1805; title issued in 1850.

Piedras verdes. Page 86. Registered in 1818; title issued in 1834.

San José del Tabelo. Page 96. Registered 1766; title issued in 1833.

Saguaribo. Page 103. Registered in 1818; adjudicated in 1826.

San Antonio de la Cañada. Page 104. Registered in 1813; adjudicated in 1832.

Santa Rosa. Page 105. Registered in 1814; adjudicated in 1832.

85 Subiate. Page 113. Denounced in 1816; title issued May 27, 1833.

San Antonio (á) Aguage. Page 118. Registered in 1821 (month not given); adjudicated in 1833.

\* San Ignacio de la Canoa. Page 121. Registered in 1820; adjudicated in 1849.

San José del Palmarito. Page 122. Registered in 1805; title issued in 1835.

San Antonio de las Animas. Page 124. Registered in 1813; title issued in 1833.

S. José de Teopari. Page 325. Registered in 1813; title issued in 1834.

S. Juan de los Lagos (á) El Desmonte. Page 125. Registered in 1812; title issued in 1834.

S. Felipe y Arroyo del Espíritu Santo. Page 135. Registered in 1812; title issued in 1835.

San José de Toicerovavi. Page 145. Registered in 1817; title issued in 1833.

Grants instituted prior to independence, confirmed and final title issued thereon by the Mexican Republic in the time of the departments.

Agiabampo y Carazeri. Page 5. Begun in 1805; title delivered in 1841.

Alamo, Sierra de Jarolache y San Juan. Page 8. Registered in 1802; title delivered in 1837.

Bacatete. Page 15. Begun in 1812; adjudicated in 1843.

Carrizal de Tena. Page 25. Denounced in 1819; title issued in 1837.

Chuculisani y Lagunas Prietas. Page 29. Registered in 1805; title issued in 1836.

Cervantes. Page 30. Registered in 1813; title issued in 1838.

Cerrito de la Flojera. Page 34. Registered in 1819; title issued in 1837.

Guateco y Bojute. Page 46. Registered in 1803; title issued in 1836.

Lajitas y Palos Blancos. Page 57. Denounced in 1817; title issued in 1838.



Llano Grande. Page 58. Registered in 1821 (month not given); adjudicated in 1843.

Llano de la Cabeza. Page 59. Denounced in 1819; title issued in 1838.

Macopaco. Page 61. Registered in 1818; title issued in 1842.

Pozito y punta de Agua. Page 76. Registered in 1821 (month not given); adjudicated in 1837.

Plomosas. Page 77. Surveyed in 1798; title issued in 1836.

86 Rodeito y Real viejo. Page 90. Denounced in 1816; title issued May 2, 1837.

San José de Gracia. Page 107. Denounced in 1814; title issued October 27, 1837.

San José de la Nopalera. Page 107. Denounced in 1816; title issued in 1839.

San Juan. Page 108. Denounced in 1817; title issued November 28, 1836.

Sn. Blas y Sn. José de Tosimurito. Page 108. Registered in 1815; issued in 1837.

San José (á) El Potrero. Page 109. Registered in 1817; title issued in 1837.

San Nicolas. Page 109. Registered in 1814; title issued in 1837.

San Pedro. Page 123. Registered in 1807; title issued in 1839.

San Rafael de la Noria. Page 126. Registered in 1813; title issued in 1837.

#### Titles issued in 1822.

San Clemente de Terape. Page 118.

#### Titles issued in 1823.

Calabazas. Page 27.

Titles issued in 1824 (in addition to those appearing elsewhere in this summary).

Ocuca. Page 73.

\* Parra. Page 86. Denounced in 1814; title issued July 6, 1824.

Sanjones. Page 117. Registered in 1816; adjudicated in 1824.

\* San Antonio de la Ciénega y la Mora. Page 118.

San José del Cajón. Page 119. Adjudicated in 1824.

\* San Rafael. Page 120. Registered in 1822; adjudicated in 1824.

San Ignacio (á) Las Cuervas. Page 121.

San José del Ranchito. Page 125. Registered in 1807; title issued in 1824.

87 Grants where petitions were addressed to the commissary-general in the first instance, and titles were issued by him.

\* Cobachi. Page 41. Registered and adjudicated in 1825.

\* San Antonio de Pádua (á) El Poso de Crisanto. Page 105. Denounced in 1825; title issued August 27, 1825.

Grants instituted after the independence, and before 1825, before intendentes, subdelegates and others, carried on, confirmed and final title thereon issued by the commissary-general in the name of the Mexican Republic.

- \* Batana. Page 15. Registered in 1822; title issued in 1825.
- \* Braviso. Page 15. Registered in 1821; title issued in 1824.
- \* Corideguachi. Page 27. Registered in 1822; title issued in 1825.
- \* Higuera. Page 48. Registered in 1821; adjudicated in 1825.
- \* Merced de las Flores. Page 61. Title issued in 1824.
- \* Potrero. Page 76. Registered in 1822; adjudicated in 1825.
- \* Padercitas. Page 76. Registered in 1822; adjudicated in 1824.
- Palmillas. Page 76. Adjudicated in 1825.
- \* San José del Cabrizo. Page 105. Registered in 1823; adjudicated in 1825.
- \* San Antonio del Alamito. Page 118. Registered in 1823; adjudicated in 1824.
- San Felipe de Toyvapa. Page 119. Registered in 1823; adjudicated in 1825.
- \* San Francisco Javier (á) La Palma. Page 119. Adjudicated in 1824.
- \* S. José del Potrero. Page 119. Registered in 1822; adjudicated in 1825.
- \* San Juan Nepomuceno (á) El Corral de Arvizu. Page 120. Title issued in 1824.
- San Juan Nepomuceno (a) La Paloma y Aguila. Page 120. Registered in 1823; title adjudicated in 1825.
- San Rafael de Juriquipa. Page 120. Registered in 1812; adjudicated in 1825.
- \* Santa Ana. Page 120. Registered in 1822; adjudicated in 1825.
- Sn. José de Nator y S. Ignacio de Loyola. Page 131. Registered in 1822; title issued in 1825.
- 88 \*Tebisco. Page 147. Registered in 1822; adjudicated in 1824.
- \* Viejo (a) De lo de Salvador. Page 155. Registered in 1822; adjudicated in 1825.

Grants instituted after the independence, and before 1825, before intendentes, subdelegates and others, carried on, confirmed and final title thereon issued by the treasurer-general of the State of Sonora.

- Animas (á) Los Chinos. Page 4. Registered in 1822; adjudicated in 1831.
- Corral viejo. Page 27. Registered in 1822; adjudicated in 1833.
- Ciénega. Page 27. Registered 1822; title issued in 1834.
- \* San Miguel de la Huerta. Page 96. Registered in 1824; title issued 1833.
- San Benito (á) La Palmita. Page 118. Registered in 1824; adjudicated in 1833.
- San José del Chicural. Page 119. Registered in 1822; adjudicated in 1832.
- Vallecitos. Page 155. Registered in 1822; title issued in 1833.

Grants instituted after the independence, and before 1825, before intendentes, subdelegates and others, carried on, confirmed and final title thereon issued by the Mexican Republic in the time of the Departments.

Casa Colorada. Page 27. Registered in 1822; adjudicated in 1837.  
Pozo de Crisanto. Page 83. Registered in 1824; title issued in 1837.  
Santa Rosa (a) La Poza. Page 120. Registered in 1824; adjudicated in 1837.

Grants instituted before State officials, carried on, confirmed and final title thereon issued by the Mexican Republic in the time of the Departments.

Agua prieta, Naynadivacachi y Santa Bárbara. Page 8. Registered in 1835; title issued in 1836.

Alisos. Page 9. Registered in 1828; title issued in 1836.

Arrieros. Page 11. Registered in 1835; title issued in 1837.

89 Bavisio. Page 17. Registered in 1833; title issued in 1836.

Cañada del Valle del Sonora. Page 23. Registered in 1823; title issued in 1837.

Cerro Colorado y Nacapulito. Page 34. Registered in 1834; title issued in 1836.

Cajón y Tubaco. Page 39. Registered in 1835; title issued in 1837.

Jesus Maria. Page 53. Registered in 1834; title issued in 1837.

Jusibambo. Page 54. Registered in 1834; title issued in 1838.

Llano Blanco. Page 58. Registered in 1830; title issued in 1837.

Mesa del Alamito. Page 66. Registered in 1835; title issued in 1836.

Obispo. Page 72. Registered in 1830; adjudicated in 1837.

Parida. Page 81. Registered in 1825 (month not given); title issued in 1837.

Paredones y San Juan Bautista. Page 83. Registered in 1835; title issued in 1837.

Palma. Page 83. Registered in 1835; title issued in 1837.

Potrero. Page 84. Registered in 1835; title issued in 1837.

Pozito. Page 84. Registered in 1835; title issued in 1836.

San Antonio. Page 95. Registered in 1833; title issued in 1841.

Seri. Page 103. Registered in 1826; adjudicated in 1838.

Sierra de S. José. Page 114. Registered in 1834 (month not given); title issued in 1836.

San José (a) La Angostura. Page 114. Registered in 1834; title issued in 1836.

S. Juan D. Madrid. Page 115. Registered in 1830; title issued 1838.

S. José de la Mesa. Page 116. Registered in 1832; adjudicated in 1837.

Sendraditas. Page 127. Registered in 1835; title issued in 1838.

San José de los Angeles. Page 131. Registered in 1828; title issued in 1836.

Sn. Fernando de la Casita. Page 135. Registered in 1834; title issued in 1837.

San Juan Bautista de la Tierra Prieta. Page 135. Registered in 1835; title issued in 1837.

San Pedro del Almagre. Page 135. Registered in 1835; title issued in 1837.

Sovechi. Page 136. Registered in 1835; title issued in 1837.

90 Saucito. Page 139. Registered in 1834; title issued in 1837.

S. José de Taribuci. Page 139. Registered in 1834; title issued in 1837.

S. Luis (á) El Saucito (en el Picacho). Page 139. Registered in 1834; title issued in 1837.

Tienda Pintada. Page 147. Registered in 1830; adjudicated in 1837.

Grants instituted under the departments, carried on, confirmed, and final title thereon issued by the State officials.

Batea. Page 15. Registered in 1836; title issued in 1849.

Bomi. Page 16. Denounced in 1842; title issued in 1847.

Chiltepines. Page 26. Registered in 1844; adjudicated in 1847.

Cascarita. Page 31. Registered in 1838; title issued in 1852.

Madera y Ventana. Page 65. Registered in 1843; title issued in 1850.

Pillado el Grande. Page 76. Registered in 1839; adjudicated in 1849.

Sáric. Page 117. Registered in 1839; adjudicated in 1848.

S. Antonio de Iturbide. Page 128. Denounced in 1841; title issued in 1848.

San Francisco. Page 129. Denounced in 1847; title issued in 1849.

Todos Santos (á) Los Muertos. Page 151. Registered in 1836; title issued in 1852.

#### Grants issued by the State of Sonora.

These are far too numerous to set out in detail. The official catalogue shows more than 180 of such titles, issued in the various years as follows: In 1826, one; 1828, three; 1830, ten; 1831, fifteen; 1832, sixteen; 1833, forty-three; 1834, twenty-six; 1835, twenty-one; 1848, nine; 1849, five; 1850, eleven; 1851, four; 1852, sixteen.

(Endorsed:) No. 6. Court of Private Land Claims. Maish & Driscoll vs. United States. San Ygnacio de la Canoa grant. Stipulation. Filed in the office of the clerk Court of Private Land Claims May 28, 1895. Jas. H. Reeder, clerk. By R. L. Long, deputy.

Alamo de Sevilla: Four sitios of land. Page 8 of official catalogue. Begun by petition before Bustamante November 2, 1821. Receipt for payment signed March 2, 1822, by Escalante and Fuente. On back of expediente is note signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on July 18, 1825.

Batana: Four sitios of land. Page 15 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings August 16, 1822. Receipt for payment signed by Fuente and Gonzales October 20, 1822. Note on expediente that title had been issued on May 15, 1825.

**Baviso:** Two sitios of land. Page 15 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings December 28, 1821. Receipt for payment signed by Escalante and Fuente March 18, 1822. Note on expediente signed by Riesgo as commissary-general, and all in his handwriting, that he had issued the corresponding title of sale and confirmation on November 18, 1824.

**Chanate y Bamori:** Four sitios of land. Page 26 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings April 14, 1822. Receipt for payment signed by Fuente and Jose Maria Mendoza December 22, 1822. Note on expediente, signed by Mendoza, that the corresponding title for the lands spoken of in the expediente had been issued on April 4, 1833. This grant is recorded in the book of Toma de 92 Razon for the year 1833 at the bottom of the back of page 9 and the top of page 10, the note of the record being signed by Mendoza, treasurer-general of the State of Senora.

**Corideguachi:** Two sitios of land. Page 27 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings January 21, 1822. Receipt for payment signed by Escalante and Fuente March 18, 1822. Note on expediente that title had been issued January 10, 1825.

**Higuera:** One and one-half sitios of land. Page 48 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings December 13, 1821. Receipt for payment signed by Escalante and Fuente March 29, 1822. Note on expediente that title had been issued May 15, 1825.

**Ntra Sra. del Carmen:** Three sitios of land. Page 70 of official catalogue. Begun by petition before Governor Intendente Cordero. Petition admitted and order made by him for survey and other proceeding June 19, 1821. Receipt for payment signed by Escalante and Fuente November 9, 1821. Note on expediente signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on November 15, 1824.

**Padercitas:** One and three-quarters sitios of land. Page 76 of official catalogue. Begun by petition before the intendente of the public treasury, Bustamante. Petition admitted and order made by him for survey and other proceedings January 29, 1822. Receipt for payment signed by Escalante and Fuente March 25, 1822. Note on expediente 93 signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on November 14, 1824.

**Palmillas:** One sitio and one caballeria of land. Page 76 of official catalogue. In this grant, after usual proceedings had been gone through, Bustamante, intendente-general, by order dated Arizpe, July 25, 1823, directs that the resolution of the junta provincial be complied with. Receipt for payment signed by Fuente and Jose Maria Mendoza July 24, 1823. Note on expediente that title had been issued May 15, 1825.

**Pilares:** Three sitios of land. Page 87 of official catalogue. Begun by petition before Governor Intendente Cordero. Petition admitted and

order made by him for survey and other proceedings June 13, 1821. Receipt for payment signed by Bustamante and Jose Maria de Casas August 27, 1821. Note on expediente signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on November 15, 1824.

San Francisco Javier (á) la Palma: Four sitios of land. Page 119 of official catalogue. Petition addressed to Sor. Sub. Delegado y Juez de partido, Ygnacio Escobosa. Petition admitted by him and order made for survey and other proceedings February 12, 1822. Proceedings referred to promotor fiscal by Intendente Bustamante July 13, 1822. Opinion of promotor fiscal to him August 3, 1822. Order for the three almonedas signed by Bustamante and assistants, and three almonedas signed in same way. Approval of proceedings and order for payment by Bustamante, as intendente interino of Sonora and Sinaloa and ministro tesorero propietario. Receipt of payment signed by Fuente and Gonzales August 12, 1822. Note on expediente signed by Riesgo  
94 that he had issued the corresponding title of sale and confirmation on the 15th day of November, 1824.

San José del Potrero: Three sitios of land. Page 119 of official catalogue. Begun by petition before Governor Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings January 9, 1822. Receipt for payment signed by Escalante and Fuente March 25, 1822. Note on expediente signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on May 18, 1825.

San Juan Nepomuceno (á) el Corral de Arvizu: Two sitios of land. Page 120 of official catalogue. Petition addressed to Sor. Sub. Delegado y Juez Agrimensor. After usual proceedings expediente was referred to promotor fiscal by Intendente Bustamante March 13, 1822, and after opinion of promotor fiscal and three almonedas, each signed by Bustamante and assistants, and approval of proceedings and order for payment signed by Bustamante as intendente interino and ministro tesorero propietario, payment was made and receipt for same signed by Escalante and Fuente March 18, 1822. Note on expediente signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on November 15, 1824.

San Rafael: Two sitios of land. Page 120 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings June 9, 1822. Receipt for payment signed by Fuente and Gonzales August 27, 1822. Note on expediente signed with rubric of Mendoza that title had been issued November 17, 1824.

95 Santa Ana: Three sitios of land. Page 120 of official catalogue. Begun by petition before Governor Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings January 9, 1822. Receipt for payment signed by Escalante and Fuente March 25, 1822. Note on expediente signed by Riesgo as Commissary-General of the Treasury that he had issued the corresponding title of sale and confirmation on May 15, 1825.

San Ygnacio de la Canoa: Four sitios of land. Page 121 of official catalogue. Begun by petition before the Governor Intendente Septem-



ber 6, 1820. Petition admitted and order made by Cordero for survey and other proceedings May 29, 1821. Receipt for payment signed by Escalante and Fuente December 17, 1821. Note on expediente signed by Teran that title had been issued. This grant is recorded in book of Toma de Razon on back of page 79, under date of February 2, 1849, entry of record being signed by Teran, Treasurer-General of the State of Sonora.

San Rafael de la Zanja: Four sitios of land. Page 141 of official catalogue. Begun by petition before Intendente Cordero. Petition admitted and order made by him for survey and other proceedings July 19, 1821. Receipt for payment signed by Escalante and Fuente January 11, 1822. Note on expediente that title had been issued May 19, 1825.

Tres Marias: Four sitios of land. Page 147 of official catalogue. Begun by petition before Subdelegate and Judge of Surveys Escobosa. Petition admitted and order for survey and other proceedings made by him December 5, 1821. Proceedings referred to Promotor Fiscal by Intendente Bustamante March 13, 1822. Opinion of Promotor Fiscal and three almonedas and approval of proceedings by Intendente Bustamante and order for payment. Certificate of receipt of payment signed by Escalante and Fuente March 18, 1822. Note on expediente signed by Riesgo as Commissary-General that he had issued the corresponding title of sale and confirmation on November 14, 1824.

Tebisco: Medio sitio of land. Page 147 of official catalogue. Begun by petition before Intendente Bustamante. Petition admitted and order made by him for survey and other proceedings September 2, 1822. Usual proceedings of pregonos and almonedas. Certificate of receipt of payment signed by Fuente only, on account of the absence of his associate. Note on expediente signed with rubric of Mendoza that title had been issued November 18, 1824.

Viejo (á) de lo de Salvador: Five sitios of land. Page 155 of official catalogue. Begun by petition before Subdelegate Escobosa. Petition admitted and order for survey and other proceedings made by him March 6, 1822. Usual proceedings of survey and valuation, and proceedings referred to Promotor Fiscal by Intendente Bustamante July 18, 1822. Opinion of Promotor Fiscal and three almonedas, and approval of proceedings by Bustamante and order for payment. Certificate of receipt of payment signed by Fuente and Gonzales August 12, 1822. Note on expediente signed with rubric of Mendoza that title had been issued May 15, 1825.

97 Cieneguita: One sitio of land. Page 27 of official catalogue.

Begun by petition before Governor Intendente Roxo. Petition admitted and order for survey and other proceedings made by him January 7, 1819. Note on expediente signed by Riesgo as commissary-general, and all in his handwriting, that he had issued the corresponding title of sale and confirmation on August 11, 1825.

Cuchilla del Burro: One sitio and two and three-quarters caballerias of land. Page 28 of official catalogue. Begun by petition before Intendente Carpina. Petition admitted and order for survey and other proceedings made by him February 6, 1827. Receipt for payment signed

by Roxo, Escalante, and Vildosola. Note on expediente signed by Riesgo as commissary-general, and all in his handwriting, that he had issued the corresponding title of sale and confirmation on November 14, 1824.

Chupisonora, Taray, Punta del Agua y Veranito: Three sitios and a fifth of land. Page 33 of official catalogue. Begun by petition before the intendente February 20, 1809. Receipt for payment signed by Bustamante and Santianes October 16, 1825. In this grant Jose Maria Mendoza, as promotor fiscal, gives his opinion to Commissary-General Riesgo that after certain payments are made title should issue, in which opinion Riesgo concurs under date of October 1, 1825. Note on expediente that the corresponding title of sale and confirmation had been issued on December 22, 1825.

Encinal: One sitio of land. Page 43 of official catalogue. Begun by petition before Subdelegate Carpena. Petition admitted and order for survey and other proceedings made by him February 5, 1817.

98 Receipt for payment signed by Fuente and Gonzales July 30, 1822. Note on expediente signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on November 12, 1824.

Nuestra Sra. de los Dolores de Cobayma: One and three-quarters sitios four caballerias and one hundred and six cuerdas of land. Page 70 of official catalogue. Petition addressed to Senor Sub Delegado Juan Daza. Petition admitted by him February 24, 1804. Interested parties to whom expediente had been delivered petition the Commissary-General, Riesgo, to issue title. This petition referred by Riesgo to promotor fiscal November 18, 1824. Report of promotor fiscal to commissary-general. Order signed by Riesgo to proceed to the three public almonedas. Notification to attorney of interested parties signed by Riesgo, Mendoza, and the attorney, and Cabanillas, assistant. Three almonedas each, signed by Juan Miguel Riesgo. Order that expediente be shown to interested party, dated Fuerte, December 9, 1824, signed by Riesgo and Mendoza. Declaration of regularity of proceedings and order to interested party to pay value of land, signed by Juan Miguel Riesgo and assistants. Acceptance by representative of interested party, signed by him and by Riesgo and assistants. Note on expediente signed with rubric of Mendoza that title had been issued on November 14, 1825.

Potrero: One sitio of land. Page 76 of official catalogue. Begun by petition before Subdelegate Carpina. Petition admitted by him May 21, 1817. Receipt for payment signed by Fuente and Gonzales September 5, 1822. Note on expediente signed by Riesgo as commissary-general that he had issued the corresponding title of sale and confirmation on July 6, 1824.

Parra: One sitio and three-quarters of another and thirty-five cordeles of land. Page 86 of official catalogue. Begun by petition before subdelegate and judge of surveys and lands, Rafael Ortiz de la Torre. Petition admitted and order made by him for survey and other proceedings May 22, 1814. Receipt for payment signed by Escalante and Fuente December 28, 1821. Note on expediente that title had been issued July 8, 1824.

San Juan del Carrizo: One and three-quarters sitios of land. Page 107 of official catalogue. Petition addressed to Snr. Governor Intendente

Roxo. Petition admitted and order for survey and other proceedings signed by Roxo October 20, 1818. Proceedings referred to Promotor Fiscal by order of Riesgo dated November 18, 1824. Opinion of Promotor Fiscal addressed to Senor Comisario gral de Hacienda, January 7, 1825. Three almonedas, each signed by Juan Miguel Riesgo and Promotor Fiscal. Statement of interested party addressed to Snr. Comisario gral. de Hacienda, expressing satisfaction with proceedings. Statement signed by Juan Miguel Riesgo, dated January 10, 1825, styling himself Commissary-General provisional of Hacienda, public credit and war of the State of the West, that he had examined proceedings and found them regular, and ordering payment of money. Receipt for payment signed by Joaquin de Santa Cruz, Comisario of the section of Arizpe, July 8, 1825, that on page 21 of the Libro Manual of the Federation appears the entry of payment. Note on expediente that title had been issued January 28, 1825.

100 San Jose de la Noria: One and one-quarter sitios of land.

Page 119 of official catalogue. Petition addressed to Sor. Subdelegado Rafael Ortiz de la Torre. Order made by him September 22, 1812, for survey. Proceedings referred to Promotor Fiscal by Intendente Bustamante, December 6, 1821. Opinion of Promotor Fiscal to Bustamante December 7, 1821. Order for three almonedas signed by Bustamante, and three almonedas each signed by him and the Promotor Fiscal. Declaration by Bustamante of regularity of proceedings and order for payment of money, signed December 24, 1821. Receipt for money signed by Escalante and Fuente December 28, 1821. Note on expediente signed by Riesgo as Comisario-General that he had issued the corresponding title of sale and confirmation on November 15, 1824.

San Jorge de Babarocagui: One sitio of land. Page 124 of official catalogue. Petition addressed to Subdelegate Tiburcio Angel del Toledo. Petition admitted and order made by him May 6, 1811, for survey and other proceedings. Proceedings referred to Promotor Fiscal by Commissary-General Riesgo May 9, 1825. Opinion of Promotor Fiscal addressed to commissary-general, May 9, 1825. Order for three almonedas signed by Riesgo, and three almonedas each signed by him and Promotor Fiscal. Statement signed by Juan Miguel Riesgo, styling himself commissary-general provisional of the State, approving proceedings and ordering payment of money. Note on expediente that the corresponding title had been issued.

San Jose de Caguinagua: Three-quarters of a sitio of land. Page 124 of official catalogue. Petition addressed to Subdelegate Juan Daza.

Petition admitted and order made by him May 19, 1794. Proceedings referred to Promotor Fiscal by Commissary-General Riesgo December 5, 1824. Opinion of Promotor Fiscal addressed to commissary-general, December 6, 1824. Order for three almonedas signed by Riesgo and three almonedas each signed by him and Promotor Fiscal. Statement signed by Juan Miguel Riesgo, with Jose Maria Mendoza as one of the assistants, styling himself commissary-general provisional of Hacienda, public credit and war, dated December 10, 1824, approving proceedings and ordering payment of money. At end of expediente is note that title had been issued on May 15, 1825.

San Jose de Tutugueachi : One sitio and one caballeria of land. Page 125 of official catalogue. Petition addressed to Subdelegate Daza. Petition admitted and order made by him February 21, 1820, for survey. Proceedings referred to Promotor Fiscal by Commissary-General Riesgo, December 5, 1824. Opinion of Promotor Fiscal addressed to Commissary-General December 6, 1824. Order for three almonedas signed by Riesgo, and three almonedas each signed by him and Promotor Fiscal. Statement signed by Juan Miguel Riesgo, with Jose Maria Mendoza as one of the assistants, styling himself Commissary-General Provisional of Hacienda, public credit and war of the State of the West, approving proceedings and ordering payment of money. At end of expediente is a note that title had been issued.

San Juan Bautista de Cochorime : Two sitios and seventeen caballerias of land. Page 133 of official catalogue. Petition addressed to Sor. Subdelegado Provisional Juan Daza. Petition admitted and order made by him for usual proceedings, May 20, 1795. Proceedings referred 102 to Promotor Fiscal by Commissary-General Riesgo November 18, 1824. Opinion of Promotor Fiscal addressed to Commissary-General Riesgo December 6, 1824. Order for almonedas signed by Riesgo, and the three almonedas each signed by him and by Promotor Fiscal. Statement signed by Juan Miguel Riesgo, styling himself Commissary-General of Hacienda, public credit and war of State of the West, approving proceedings and ordering payment. Note on expediente that title had been issued on December 11, 1824.

On petition of interested parties a copy of this expediente was issued to them by the Treasurer-General of the State of Sonora, December 7, 1888.

103 Bacusa : Two and one-half sitios and twenty-two thousand square varas of land. Page 15 of official catalogue. Expediente shows a petition addressed to the Commissary-General reciting that a grant had been made, and requesting the Commissary-General as the proper official to issue title. Petition dated April 29, 1826. Petition granted by Juan Miguel Riesgo. Note on expediente signed with rubrica of Riesgo that he had issued title on May 27, 1826.

Cobachi : Three and one-half sitios of land. Page 41 of official catalogue. Petition addressed to Commissary-General stating that parties had been in possession of lands and had paid for same, but had not obtained title, and asking that testimony of witnesses be taken as to these facts. On September 2, 1825, Juan Miguel Riesgo, Commissary-General, orders the testimony to be taken by the alcalde. Receipt for payment signed by Milla and Yberri, August 30, 1833. Note on expediente that title of sale was issued on August 30.

Merced de las Flores : One caballeria of land. Page 61 of official catalogue. Petition addressed to Senor Subdelegado Manuel de Vnea. Petition admitted by him dated Cualiacan, January 31, 1822. Proceedings referred to Promotor Fiscal by Riesgo, dated Fuerte, November 18, 1824. Report of Promotor Fiscal to the Commissary-General, December 6, 1824. Statement that interested party was notified of report of Promotor Fiscal, signed by Riesgo and Jose Maria Mendoza and Jose Quiroz, assistants. Three almonedas, each signed by Riesgo. Order that expediente be shown to interested party, signed by Riesgo, Fuerte, December

9, 1824. Acceptance of proceedings by interested party, addressed to Senor Comisario gral de Hacienda. Declaration of regularity of proceedings, signed by Juan Miguel Riesgo and Jose Maria Mendoza and Pedro Loniza, assistants. Notification to interested party and acceptance by him, signed by him and by Riesgo, Mendoza, and Jose Quiroz. Note on expediente that corresponding title had been issued.

San Miguel de la Huerta: One and one-half sitios of land. Page 96 of official catalogue. Petition addressed to Senor Intendente de Real Hacienda. Order made by Juan Miguel Riesgo, dated Fuertes, December 6, 1824, for survey and other proceedings, after which the expediente was to be returned to that Comisaria-General. Receipt for payment of value of the land signed by Jose Justa Milla, Treasurer-General of the State of Sonora, October 14, 1833. Note on expediente that title of sale had been issued October 14, 1833. The borrador recites that the petition was made before the Comisaria-General, and that it was admitted in conformity with law on December 6, 1824.

San Jose del Carrizo: Two and one-quarter sitios of land. Page 105 of official catalogue. Petition addressed to Sor Subdelegado Nicolas Mesias. Petition admitted and order for survey and other proceedings made by him January 15, 1823. Proceedings referred to Promotor Fiscal by Riesgo, dated December 4, 1824. Opinion of Promotor Fiscal addressed to the Senor Comisario-General, December 6, 1824. Order to proceed to the three public almonedas, signed by Riesgo, and three almonedas each signed by Riesgo and the Promotor Fiscal. Statement signed by Juan Miguel Riesgo, dated December 10, 1824, styling himself Comisary-General Provisional de Hacienda, public credit and war, that he had examined proceedings and found them regular, and ordering interested party to pay the money. Note on expediente signed with rubrica of Riesgo that he had issued title of sale May 15, 1825. The expediente of this grant contains the statement, a certified copy of which, under date of April 24, 1894, is furnished by the treasurer-general of Sonora.

San Antonio de Padua (á) El Paso de Crisanto: Four sitios of land. Page 106 of official catalogue. Petition of Dionisio de Aguilar to Senor Comisario-General of the State of the West, dated June 25, 1825, reciting loss of expediente and praying that testimony of witnesses be taken.

On June 26, 1825, Riesgo, Commissary-General, directs the proceedings prayed for to be taken, and for the interested party to present them in due form. On August 25, 1825, order made, signed by Riesgo, referring proceedings to Promotor Fiscal. Opinion of Promotor Fiscal, dated August 25, 1825, addressed to the Comisario-General. Order signed by Juan Miguel Riesgo as Commissary-General August 26, 1825, that title be issued in accordance with opinion of Promotor Fiscal. Note on expediente signed by Riesgo as Commissary-General that he had issued the title of sale and confirmation on August 27, 1825.

San Antonio del Alamito: One-quarter of a sitio and eight caballerias of land. Page 118 of official catalogue. Petition addressed to Senor Subdelegado Favela. Petition admitted by him and order for survey and other proceedings, dated Sinaloa, December 18, 1823. Proceedings

referred to Promotor Fiscal by Riesgo, dated Fuerte, November 20, 1824. Opinion of Promotor Fiscal addressed to Senor Commissary-General, December 6, 1824. Order signed by Riesgo to proceed  
 106 to the three public almonedas, and three almonedas each signed by Riesgo and the Promotor Fiscal. Statement signed by Juan Miguel Riesgo as Commissary-General, Provisional of Hacienda, public credit, and war of the State of the West, approving proceedings and ordering payment to be made. Note on expediente that title was issued December 11, 1824.

San Antonio de la Cienega y la Mora: Two sitios of land. Page 118 of official catalogue. With the expediente of this grant is found the following communication, signed with rubrica of Riesgo. "The Commissary-General. In the expediente, which exists in the Commissary's office under my charge, it is stated that the lands of the places called San Antonio de la Cienega and La Mora, within the jurisdiction of Culiacan, were sold with all the requisites established by law in favor of Don Jose Verdugo y Chaves, who paid in, on January 30, 1824, its value in this Treasury. By reason of which payment I have issued the title and have it in my possession, because the representative of owner has not presented himself to take it out. Wherefore the right of Don Jose Verdugo y Chaves being incontrovertible, I communicate this to you in answer to your inquiry of July 4 last, adding that if anybody should desire a certified copy of the said expediente I am ready to furnish it in accordance with the laws. July 13, 1825. Sr. Alcalde 1 de la Ciudad de Culiacan." Rubric of Riesgo.

San Felipe de Toyvapa: One sitio, half a cabalaria, and seven cordeles of land. Page 119 of official catalogue. Petition addressed to Subdelegate Manuel Favela. Petition admitted and order for survey and other proceedings made by him May 9, 1823. Proceedings referred to Promotor Fiscal by Riesgo, December 4, 1824. Opinion of Promotor Fiscal addressed to the senior Commissary-General December 6, 1824.  
 107 Order to proceed to the three almonedas, signed by Riesgo, and three almonedas, each signed by him and assistants. Statement of Juan Miguel Riesgo as Commissary-General Provisional of Hacienda, public credit, and war, dated December 10, 1824, approving proceedings and ordering party to make payment. This order signed also by Jose Maria Mendoza, assistant. Note on expediente, signed by Riesgo, that the corresponding title of sale had been issued May 15, 1825.

San Rafael de Juriquipa: One sitio of land. Page 120 of official catalogue. Petition addressed to Senor Intendente Juan Miguel Riesgo. Petition admitted and order made for survey and other proceedings signed by him at Arizpe, May 12, 1824. Survey and thirty pregones made as usual, and proceedings referred to Promotor Fiscal Jose Maria Mendoza by Riesgo, December 4, 1824. Opinion of Promotor Fiscal to Riesgo as Commissary-General, December 6, 1824. Order for three almonedas, signed by Riesgo, and three almonedas each signed by him and the Promotor Fiscal, Mendoza. Statement by Juan Miguel Riesgo, dated Fuerte, December 10, 1824, styling himself Commissary-General, Provisional de Hacienda, public credit, and war, of the regularity of the proceedings, and ordering payment of money. Note on bottom of expediente signed with rubric of Riesgo that he had issued title of sale on May 15, 1825,



and made record of same in book 2, on page 3. The expediente of this grant contains the statement, a certified copy of which, under date of April 24, 1894, is furnished by the Treasurer-General of Sonora.

San Ignacio (á) Las Cuevas: One sitio of land. Page 121 of official catalogue. Petition addressed to Senor Intendente and Juez  
108 Privativo de Tierras Riesgo. Petition admitted and order for survey and other proceedings made by him May 27, 1824. Proceedings referred by Riesgo to Promotor Fiscal, December 5, 1824. Opinion of promotor fiscal to Riesgo as Commissary-General, December 6, 1824. Order for three almonedas, signed by Riesgo, and three almonedas each signed by him and assistants. Statement of Riesgo, signed at Fuerte, December 10, 1824, styling himself Commissary-General of Hacienda, public credit, and war, approving proceedings and ordering payment of money. Note on expediente that the corresponding title of sale had been issued.

109 Cuchuta: Eight sitios of land. Page 37 of official catalogue. The copy of this expediente shows that title was issued by Ignacio de Bustamante, intendente, on May 19, 1823.

Nuestra Sra. de los Dolores: One sitio of land. Page 70 of official catalogue. Begun by petition before the Intendente-General, who, by order of June 7, 1778, put party in possession of land, ordering that it should be surveyed as soon as practicable. Receipt of payment signed January 30, 1824, by Gabriel Romo only, on account of indisposition of his colleague. Note on expediente, signed by Juan Miguel Riesgo as intendente of the province, that he had issued the corresponding title of sale and confirmation on July 23, 1824.

San Elisario (á) el Bamuco: One and one-half sitios of land. Page 118 of official catalogue. Begun by petition before Subdelegate Carpina. Petition admitted and order for survey and other proceedings made by him November 5, 1818. Receipt of payment signed by Fuente and Mendoza, October 16, 1823. Note on expediente, signed by Riesgo as Intendente of the province, that he had issued the corresponding title of sale and confirmation on November 15, 1824.

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## EXHIBIT D.

At Hermosillo, Sonora, April 24, 1894, in the archives of the office of the treasurer-general of the State of Sonora, in Book LXXIII, I find a letter written and signed by Jose Maria Mendoza, of which the following is a translation:

ARIZPE, November 20, 1830.

Sr. VICTORIO ZEPEDA.

MY DEAR SIR AND FRIEND: The Commissary-General of this State has charged me with the delivery to the respective interested parties of several titles of grants and their confirmation of lands surveyed, appraised, auctioned off, and adjudged by the treasury of the federation before the classification of revenues, after having first received the fifty dollars of fees which each one is subject to, and there being amongst said titles that of the place called El Alimillo, situated in the jurisdiction of the pueblo of Cucurpe, which the late Don Fernando de Bustamante entered in your name in April, 1820. I communicate this to you that you may be

pleased to take it out from the section of the treasury under my charge with the least possible delay. Wherefore I beg you to do this.

Your attentive and most affectionate and true servant, Q. B. S. M.,

JOSE MARIA MENDOZA.

I found a similar letter of same date to D. Francisco Narvona y Agustin Bejarano, regarding ranch of Batana, denounced in August, 1822; a similar letter of same date to Sr. Francisco Robles, regarding ranch of Los Pillares, denounced in June, 1821; similar letter of same date to Sr. D. Fernando Ma Grande, regarding ranch of Terrenate, registered in May, 1822. All these letters contain the same statement that the lands were surveyed, appraised, sold at public auction, and adjudicated by the treasury of the federation before the classification of revenues.

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## EXHIBIT E.

(Seal.) Republic of Mexico. Treasurer-General of the State of Sonora. Two cancelled stamps of fifty cents each.

Victor Aguilar, Treasurer-General of the State of Sonora, Republic of Mexico.

I certify that in the archives of this treasury there exists a document of which the following is a copy:

ARISPE, *January 16, 1831.*

SEÑOR DON RAMON ROMERO.

MY DEAR SIR AND FRIEND: The office of the Commissary-General of this State has enjoined upon me the delivery to the respective interested parties of several titles of sale and confirmation of lands surveyed, appraised, sold by auction, and adjudged by the treasury of the federation before the classification of revenues, after receiving payment of the fifty dollars fees due on each; and there being among said titles that of the place called San Rafael de la Zanja, which was sold at auction in favor of yourself and other residents of this presidio on January 10, 1822, I notify you thereof that you may take it out from the section of the treasury under my charge as soon as possible, according to this, my request.

Yours respectfully, Q. B. S. M.,

J. M. M.

In testimony whereof I give this certificate in Hermosillo, on the 5th day of February, 1895.

V. AGUILAR.

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## EXHIBIT F.

(Seal.) Republic of Mexico. Treasurer-General of the State of Sonora. Two cancelled stamps of fifty cents each.

Victor Aguilar, Treasurer-General of the State of Sonora, Republic of Mexico.

I certify that in the expediente of San José del Carrizo, issued in the year 1825, there exists on the last page an entry, as follows:

"José María Mendoza, Comisario of the Treasury of Arizpe, in the State of Sonora and Sinaloa: I certify that on page 23 of the book of debits and credits (cargos y data) for the current fiscal year there exists

the following entry: May 2. Sale of public lands, forty-eight dollars, two reales, seven grains, paid in by Don Jose Antonio Garcia, a resident within the jurisdiction of Rio Chico, in these words: Forty-two dollars for the original valuation at which the said lands were sold at public auction by the Comisaria-General of this State on the 9th day of December, 1824, being two and a quarter sitios of land which were surveyed by the federation on and since the 18th day of January, 1823, for the raising of cattle and horses at the place called San Jose del Carrizo, situate within the said jurisdiction, in the district of Hostimuti; two dollars, three reales, ten grains, as the half-yearly tax, with the customary eighteen per cent; six reales, two grains, for the two per cent due the general fund, and the remaining three dollars for the fees of the extinguished auditor's office (contaduria del Ramo); charges which have invariably been made on all the sales of public lands like the one of which this document speaks, on account of the treasury of the federation, prior to the classification and delivery of revenues, which law went into force in this State on the 1st day of November, 1824, since which date the revenue from lands denounced, surveyed, bounded, auctioned, and possessed prior to the said first day of November has been considered one of the revenues comprised in article 12 of said law. It is to be observed that the interested party, Don Jose Antonio Garcia, at the time of making said payment, of which a receipt was given him for his protection, stated that the cause of the delay was caused only by employing a man who did not comply with his duty in time, although he had been employed ever since the year 1825. This is a true extract of the original order in the matter, called for under order No. 14. \$048, 2, 7. Mendoza. José Antonio Garcia. And to whom it may concern: This is given in Arispe on 2nd day of May, one thousand eight hundred and thirty-one. José Maria Mendoza. [Rubric.]

Given in the city of Hermosillo on the twenty-fourth day of the month of April, one thousand eight hundred and ninety-four.

V. AGUILAR.

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# EXHIBIT G.

(Seal.) Republic of Mexico. Treasurer-General of the State of Sonora. Two cancelled stamps of fifty cents each.

Victor Aguilar, Treasurer-General of the State of Sonora, Republic of Mexico.

I certify that in the expediente of San Rafael de Juriquipa, issued in the year 1824, there exists, on the last page, an entry as follows:

"Jose Maria Mendoza, Comisario of the section of the Treasury of Arispe in the State of Sonora: I certify that on page 31 of the book of debits and credits (cargos y data) for the current fiscal year there exists the following entry: June 16. Sale of public lands, thirty-five dollars, three reales, paid in by Da. Maria Gregoria Finoco, widow of D. Juan Lafarga, in these words: Thirty dollars for the original valuation at which was sold at public auction by the Commissary-General of the State on December 9, 1824, in favor of said Lafarga, a sition of land for the raising of cattle, embraced in the place called San Rafael de Juriquipa, situate within the jurisdiction of the pueblo of Oputo, and in the district of this city; being six reales, two grains, as the half-yearly tax, with the customary eighteen per cent; four reales, ten grains, for the two per

cent due the general fund, and the remaining three dollars for the fees of the extinguished auditor's office (contaduria del Ramo), ordered to be added to the general treasury fund, which have always been charged in all the sales of vacant public lands made by the public treasury, for their survey, measurement, appraisement, and auction before the classifications of revenues. It is to be noted that the interested party, when making this payment, of which I gave her a receipt, declared that she could not make such payment until now, because her husband had died leaving a family of minor children and she was put to great hardship to provide for them. This is a true extract of the original order of the commissary in the matter which accompanies order number 22. \$35, 3, 0. And to whom it may concern: This is given in Arispe on the 16th day of June, one thousand eight hundred and thirty-one. Jose Maria Mendoza. [Rubric.]

Given in the city of Hermosillo on the 24th day of the month of April, one thousand eight hundred and ninety-four.

V. AGUILAR.

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#### EXHIBIT H.

To the treasurer-general: The inhabitants of this place who hold the titles to the lands of San Rafael de la Zanja, measured in their favor, have always tried to stock them and to erect upon them their buildings of corrals and other improvements needed by a breeder of stock. The frequent incursions of the enemy have caused them to refrain from taking these steps, and inasmuch as in consequence thereof there might be attributed to them at some time an abandonment (of said lands), and from this there might result a motive for filing on said land, they have requested me to consult you in the matter whether if they erect the said structures within the ejidos (common lands) of the presidio, at the distance of about one league, more or less, you would declare and consider them as erected upon the said sitios granted, of which this speaks, until the time shall arrive when the country will be at peace; and that you will, in view of the explanation here given, and inasmuch as they will begin in the month of February next to proceed with the work, please to answer me telling me whether any structure erected within the ejidos will answer the same purpose as though erected upon the lands granted, by reason of the above-stated circumstances; and if the matter should not be so considered I wish you would have the kindness to inform me of it, that these inhabitants may know how they stand in the matter, and may act in the manner most appropriate. God and liberty.

Santa Cruz, January 27, 1836.

(Signed)

PABLO FRAYJO.

To the Treasurer-General, Don JOSE MA. MENDOZA.

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#### EXHIBIT A.

Title of grant of four sitios of land for raising cattle (cuatro sitios de tierra para cria de ganado mayor) embraced in the place named San Rafael de la Zanja, situated in the jurisdiction of the presidio of Santa Cruz, issued in favor of Don Ramon Romero and other "parcioneros," citizens of the same presidio.

(Second seal. 12 reales. Treasury-General of the State of the West. Years 1825 and 1826.)

Juan Migual Riesgo, Commissary-General of the Treasury, public credit, and war, of the State of the West.

Whereas article 81 of the ordinances of intendentes of the 4th of December, 1786, conferred upon those officers the administration and jurisdiction of the measurements, sales, and granting of lands in their respective districts, the tenor of which is as follows:

Article 81. The intendentes shall also be exclusive judges of the dependencies and causes which occur in the districts of their respective provinces in relation to the sales, compositions, and distribution of royal lands and de senorio (public lands); it being required of their possessors and of those who petition for new grants of them to set forth their rights and institute their claims before the same intendentes, so that these matters, being legally prepared in conjunction with a promotor (attorney) of my royal treasury, whom they may appoint, may be decided upon, the opinion of their ordinary assessor being heard, and they may admit appeals to the supreme junta de hacienda; or, if the parties interested do not appeal, they shall communicate to it the original proceedings for its information, when they shall judge these proceedings ready for the issuing of the title. After having been examined by the junta they shall be returned and the title issued, unless some difficulty occur, and thus before executing it the measures found to be neglected by the junta shall be observed. The proper confirmations shall, in consequence, be given by the same superior junta in due time, which shall proceed in the case, as also the intendentes, their subdelegates, and others, in conformity with the royal regulation of the 15th of October, 1754, as far as it may not be opposed to the requirements of the latter, without losing sight of the wise dispositions of the laws cited therein (Law 9th, title 12, lib. 4).

And inasmuch as Don Manuel Bustillo, a citizen of the presidio of Santa Cruz, on the 19th day of July, 1821, petitioned the governor intendente of Sonora and Sinaloa, Brigadier Don Antonio Cordero, for four sitios of land for raising cattle (cuatro sitios de tierra para cria de ganado mayor) at the place known as de la Zanja, situated in the jurisdiction of the same presidio; which petition was admitted according to law, and a commission issued to the commandant of the presidial company, Captain Don Simon Elias Gonzales, to make the corresponding survey, which petition, decree, and act of acceptance are as follows:

To the GOVERNOR INTENDENTE: I, Don Manuel Bustillo, a resident of the presidio of Santa Cruz, before your honor, with the proper respect and in due form of law, appear and say that having a considerable amount of stock, and needing a tract of land for their preservation, I denounce and ask leave to purchase at auction three sitios of land in the same presidio in which I reside, and outside of the boundaries thereof, on the side of the north, and one sitio more for an "estancia" in the place of the ejoncito, on the side of the east. Wherefore I pray your honor that for the measurement of the said tract of land you be pleased to issue the necessary orders to the proper officers, and that the commissioner may take into consideration in its valuation that the tract of land asked for borders upon the country of the Apaches, who are constantly hostile.

I therefore pray your honor to be pleased to grant my petition, in which I shall receive favor and justice, swearing that I do not act in bad faith, and to whatever is necessary.

To the GOVERNOR INTENDENTE.

MANUEL BUSTILLO.

ARIZPE, *July 19, 1821.*

The foregoing petition is presented and admitted without prejudice to third parties who may have a better right.

The commandant of the company of Santa Cruz will proceed to the measurement of the lands hereby registered, summoning the adjoining land owners and appointing expert appraisers who shall value the same impartially; publication to be made for thirty days for the purpose of soliciting bidders; and when all the necessary proceedings shall have been taken in the premises, the expediente shall be transmitted to this "juzgado privativo," for the necessary proceedings, in order that the corresponding title may issue thereon.

CORDERO.

Act of acceptance.

SANTA CRUZ, *October 4, 1821.*

Don Manuel Bustillo, of this vicinity, having presented the foregoing decree, issued on the 19th of July, ultimo, by the Senor Governor Intendente, Brigadier Don Antonio Cordero, I said that I accepted, as I at once did accept, the commission contained in the foregoing decree, where-

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(Fourth seal. Un cuartillo. Treasury General of the State of the West. Years 1825 and 1826.)

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upon I ordered that the party interested and the neighboring landowners be summoned, and accompanied by the necessary officers, who are named. I appoint to-morrow as the day for the commencement of the measurements of the four sitios for raising cattle in the place called la Zanja, as before stated. By this decree, which shall be made known to the parties interested, I, the Commissioner, Don Simon Elias Gonzales, captain of the company of the Presidio, thus provided, ordered, and signed with the assisting witnesses, as required by law, in the absence of a notary.

SIMON ELIAS GONZALES.

Asst. LORENZO SORTILLON.

Asst. RAMON ROMERO.

Immediately the commandant proceeded to summon the party and the neighboring landowners, and to appoint the respective officers, who were Don Jose Antonio Calvo as counter, Tomas Guana as notor, and Felipe Jaramillo and Leandro Romero as measurers, who, under oath, swore to discharge their duties faithfully, to the best of their ability; and after an examination of the tract of land the measurements were made on the 5th and 6th days of the month of October, in the manner shown by the following proceedings:

Beginning of survey.

On the said day, month, and year, I, the said commissioner, for the purpose of commencing the survey of the four sitios for raising cattle



denounced by Don Manuel Bustillo, of this vicinity, delivered a hempen cord, well twisted and stretched, to the officers appointed, and also a castilian vara, on which cord there were measured and counted in my presence fifty usual varas, and this operation being concluded, a stake was attached to each end of said cord; and being at the central point as fixed by the denouncer, which point is named San Rafael, the petitioner asked that since the place of Los Cajoncitos, which is petitioned for, has been recognized as being within the common lands of the presidio (of Santa Cruz) it should be added to the three sitios for which he had petitioned, which request appeared just; whereupon the measurement was commenced, the line being run towards the north, in which direction were measured two hundred cords, which terminated on a mesa on the bank of an arroyo which runs towards the peñasco, at the foot of an oak tree, upon which was made a cross, and at the trunk of which a large pile of stones was placed as a sign for a monument. Returning to the center, there were measured two hundred cords towards the south, which terminated at the mouth of the Cañada of the Protero, at the same point at which is found the monument of the common lands of this presidio on the side of the north. Returning to the center, there were measured and counted towards the east two hundred cords, which terminated beyond the said Cañada of the Protero on a contiguous mesa, where a large pile of stones was placed as a sign for a monument; and returning to the center there were measured and counted towards the west one hundred and thirty-three cords, for the reason that the sixty-seven cords required to make the two hundred cords could not be measured on account of the roughness of the tract of land; these were, therefore, estimated, the estimated line terminating on a high mountain situated in the range of the Sierra de la Plomosa, almost southwest of the hill called "El Caloso," the summit of which was taken to designate a monument. Whereupon, it being late in the day, the proceedings were suspended to be resumed to-morrow. In witness whereof I make this entry in the proceedings, which are signed by me, the assisting witnesses, the officers appointed who knew how to write, together with the interested party in the ordinary manner.

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SIMON ELIAS GONZALES.  
ANTONIO CALVO.  
MANUEL BUSTILLO.

Asst. LORENZO SORTILLON.  
Asst. RAMON ROMERO.

#### Continuation of the survey.

At the said place of San Rafael, on the 6th day of the said month and year, I, the said commissioner, together with the officers appointed, in order to make the corresponding cords of the lands measured on yesterday, went to the place at which the two hundred cords terminated on the north, from which monument we estimated, on account of the roughness of the track of land, two hundred cords towards the east, which terminated beyond a spring known as "carricillo," at the point of the Sierra del Cobre (copper mountain), at which point a corner monument is to be placed. In the same manner two hundred cords were estimated, on account of the roughness of the tract of land, towards the west to the

foot of a red mountain, which was designated as a landmark, which mountain stands in an open place

(Seal as before.)

between the peñasco and the mountains of Sonoyta; from this point four hundred cords were estimated towards the south upon the Sierra de la Plomosa to a point beyond the pass of San Antonio, where there are two small mountains which designate the corner on the side of the west of the common lands of this presidio, and which point is to serve as a corner monument of these sitios; from this point there were measured and counted two hundred cords towards the east, the line terminating at the monument on the northern boundary of the said common lands (of the presidio) which is found at the mouth of the Cañada of the Protrero; from which point, continuing the square, there were measured two hundred cords towards the east, which terminated on the Jaralito, at the corner monument of the said lands of the presidio; from which point four hundred cords were estimated towards the north on account of the roughness of the tract of land, which ended beyond the spring "el carrisillo," with which measurements was formed the square of the four sitios registered by Don Manuel Bustillo for raising cattle, and as such he accepted them, being informed that in due time he was to establish his boundaries with monuments of lime and rough stone, as required by law; signing with me the officers appointed who knew how to write, and the assisting witnesses in the ordinary form.

SIMON ELIAS GONZALES.  
MANUEL BUSTILLO.

Asst. LORENZO SORTILLON.  
Asst. RAMON ROMERO.

Whereupon the commandant proceeded to the corresponding appraisalment by means of intelligent experts, who were Don Alejo Bedoya and Tomas Guana, who, under the oath which they made in due form of law, in accordance with the knowledge which they had of the whole of the tract of land, and in accordance with the laws in relation to the matter, placed the value of sixty dollars on each of the three sitios which contained permanent water, and of thirty dollars upon the remaining one, for the reason that it is susceptible of benefit only by means of a well. With this valuation the commandant of Santa Cruz offered the said four sitios for sale at public auction for thirty consecutive days soliciting bidders. No bidders appeared, and he received the sworn testimony of three witnesses, who declared that Don Manuel Bustillo possessed sufficient means to stock the tract of land. In this condition the expediente was transmitted to the intendencia, which by decree of the 11th of December, 1821, referred the same to the promotor fiscal (attorney-general), whose report thereon is as follows:

Señor intendente interino. The promotor fiscal (attorney-general) of this intendencia has carefully examined this expediente of lands surveyed in favor of Don Manuel Bustillo, a resident of the presidio of Santa Cruz, by the commissioner, Don Simon Elias Gonzales, captain and

commandant of said presidio, in the place named San Rafael de la Zanja, in the same jurisdiction from which there resulted four sitios for raising cattle and horses, which were appraised, by two experts appointed for that purpose, at sixty dollars for three of them, because they contain running water, and the fourth at only thirty dollars, because it has need of water, and can be benefited only by a well, which two sums make two hundred and ten dollars, and having offered them at public auction for thirty consecutive days, no one offered more than the said appraisement.

Whereupon the testimony of three witnesses was taken, which 118 showed that the petitioner, Bustillo, possessed means to stock said tract of land. The promotor fiscal therefore asks you to cause the three public offers of sale to be made at public auction in this capital, inviting bidders and selling the tract of land at the highest possible price; the purchaser to be notified that he is to pay into this national treasury the total value of said lands, their half yearly tax, eighteen per cent express charges, two per cent general impost, and the three dollars for the officers of the abolished contaduria (auditor's office); the necessary certificate showing that these payments have been made to be issued and attached to the expediente, advising the superior junta of the same, that it may take such steps as may be deemed proper. This is my opinion, subject, however, to your determination.

FRANCISCO PEREZ.

ARISPE, December 20, 1821.

The intendencia having approved the foregoing report of the promotor fiscal (attorney-general), the first offer of sale at auction was made on the 8th of January, 1822, on which occasion Don Ramon Romero appeared for himself and in the name of the residents of the presidio of Santa Cruz, and bid ten dollars above the appraisement of the tract of land, and immediately Don Manuel Bustillo outbid the same; after this they

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(Seal as before.)

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went on bidding against each other alternately until the price was run up to twelve hundred dollars, this being the bid made by Don Ramon Romero.

The two remaining public offers of sale were made on the 9th and 10th of said month, and, no higher bids being made, the said four sitios of land embraced in the place of San Rafael de la Zanja remained solemnly sold to the said Don Ramon Romero and the citizens of Santa Cruz. Whereupon the expediente was transmitted to the said Romero, who replied in writing that he was satisfied with all that had been done, and that he would pay into the national treasury the sum required, and would receive the corresponding title of sale and confirmation. In virtue of which a decree was made, the tenor of which is as follows:

Decree.

In the city of Arizpe, on the 11th day of the month of January, 1822, the señor intendente ad interim of this province of Sonora and Sinaloa, Don Ignacio de Bustamente, having examined the foregoing proceedings

of survey, appraisement, offers, auctions, and sale of the four sitios of royal land for raising cattle, comprehended in the place called San Rafael de la Zanja, in the jurisdiction of the presidio of Santa Cruz, and sold to Don Ramon Romero and other citizens of that military post; in view also of Romero's written answer and all other matters necessary to be considered, he declared that said proceedings were in all respects regular and sufficient, and considering that the said Don Ramon Romero and citizens of Santa Cruz are debtors to the national treasury for the said tract of land, he had notified him, the said Romero, to pay into the public treasury of this city the sum of \$1,297, 6 reales, and 5 grains, in the following manner: \$1,200, the amount for which this intendency sold said land; \$70, 6 reales, and 5 grains as the half-yearly impost, and the remaining \$3 as an impost of the abolished auditor's office of this treasury. As soon as these payments shall be made and the corresponding certificate thereof attached to this expediente, the same shall be forwarded to the superior junta de hacienda for its approval or such action thereon as may be deemed proper. Thus ordered, decreed, and signed, with the assisting witnesses, in the absence of a notary.

IGNACIO DE BUSTAMANTE.

Asst. JOSE MA. MENDOZA.

Asst. JOAQUIN ELIAS GONZALES.

As soon as said Romero was notified of the foregoing proceedings, and in view of the approval thereof by the provincial junta of the extinguished intendencia of Sonora and Sinaloa, the interested party, on the 11th day of the said month of January, made the required payment into the national treasury of Arizpe, the ministers of which issued the following certificate:

The principal ministers of the national treasury of Arizpe and its province. We certify that on folio 3d of the manual book of the present year the following entry is found:

Half-yearly tax of lands. January 11. Don Ramon Romero, acting for himself and the other citizens of the presidio of Santa Cruz, has paid \$1,297, 6 reales, 5 grains, in the following manner: \$1,200 as the price for which this intendencia has sold him the four sitios of royal land for raising cattle, which comprehend the place called San Rafael de la Zanja, situated in the jurisdiction of the said presidio; \$70, 6 reales, 5 grains as the half-yearly tax and its 18 per cent express charges to Spain; \$24 as the two per cent of general imposts, and the remaining \$3 as a tax of the extinguished auditor's office of this treasury, as is explained by the official note of this intendencia, marked No. 1. \$1,297.6.5.

Escalante.

Fuente.

Ramon Romero.

In witness whereof we give this certificate, at Arizpe, on the 11th of January, 1822.

TOMAS DE ESCALANTE.

MIGUEL MA. DE LA FUENTE.

The above certificate having been added to the expediente, the same remains on file in the office of the commissary under my charge as a perpetual testimony; the proper title being issued to the parties interested, the superior junta de hacienda of Mexico having been abolished.

Wherefore, using the faculties expressed in the foregoing inserted article 81 of the ordinances of intendentes, and conforming in every respect to the instruction of the 15th of October, 1754, in so far as it is not opposed to the present system, by these presents, in the name of the sovereign nation of the Mexican Republic (which may God preserve), I grant the four sitios of land for raising cattle which comprehend the place called San Rafael de la Zanja, situated in the jurisdiction of the presidio of Santa Cruz, to Don Ramon Romero and other citizens interested, of the same military post; granting and adjudicating to them the said tract of land by way of sale and under the conditions prescribed by the laws, for themselves, their children, heirs, and successors; with all its entrances, exits, uses, customs, servitudes, timbers, forests, grazing lands, waters, springs, watering places, and other things appertaining thereto, on the positive and express condition that they are to settle and occupy said lands without permitting them to be unoccupied for any length of time, with the express understanding that if said lands should be abandoned during one entire year and should be denounced by any other person, they shall, after due examination of the matter, be adjudicated to the highest bidder, excepting, as is but just, any cases in which the abandonment may be caused by the hostile Apaches, who harass the frontier. Don Ramon Romero and the citizens of Santa Cruz are also required to confine themselves within their respective limits and boundaries, which they are to designate by monuments of stone and lime.

And as required in the proper administration of justice and in the enforcement of the laws, the present and future alcaldes and judges of the presidio of Santa Cruz and district of Arizpe shall not permit the said interested parties or their successors to be in any manner molested in the free use, enjoyment, ownership in fee, dominion, and possession of the said four sitios of land comprised in the place called San Rafael de la Zanja, but, on the contrary, they shall zealously and actively guard and continually maintain them in the quiet and peaceable possession of said lands. In these terms I issue the present title of sale and confirmation in due form in favor of said Don Ramon Romero and parcioneros, their children, heirs, and successors, delivering it for their security, record having been previously made in the corresponding book. Given in the village of Fuerte on the 15th of May, 1825, authorized and signed by me, sealed with the seal of this general commissary and countersigned by the undersigned, provisional secretary of the same. (Notation of corrections: Inserted between lines: "Tomas Guana par apuntador;" Corrected: "espresado, 1821, provincial, por hallarse;" remainder correct.)

JUAN MIGUEL RIESGO.

JOSE MA. MENDOZA,  
*Provisional Secretary.*

[SEAL.] Commissary-general of the State of the West.

This title is recorded on folio 3 of book No. 2, which exists in this general commissary. R.

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## EXHIBIT I.

Translation of document in the archives of the government of Sonora, at Hermosillo, Sonora:

## OFFICE OF THE SECRETARY OF THE STATE CONGRESS.

MOST EXCELLENT SIR: Based upon the law concerning the classification of Federal revenues, and upon subsequent data, the honorable Congress, in article 47 of the decree No. 23, declares that the right to issue confirmations of lands is one of the revenues of the State. The regulation of that branch was a consequence of this declaration. While this regulation was under advisement, the observations arrived which the commissary-general makes in his letter of the 26th of the past month, and which your excellency had the kindness to transmit to us, together with another letter, of the 21st of the *dame* month. They refer to those presented under date of December 13, in which said chief officer expresses doubts as to whom the proceeds of that sale belong, and about which he consulted from that time forward the General Government. The decision for which he asks has not yet come, and the honorable Congress has waited three months for it—a sufficient time for it to have arrived. This silence alone, without there being any need for other reasons which might be here alleged, confirm the opinion and convey the conviction that the said right of confirming land titles belongs to the State, and the harm which might result to the State in the present depletion of its treasury by keeping this branch in a state of paralysis was another motive towards the issuance of the said declaration.

Done in to-day's session of the honorable Congress, and so communicated to your excellency in order that you may transmit this resolution to the aforementioned commissary-general, who shall at the same time be notified that if, after the usual procedure in such cases, it should be declared that the branch of public lands did not form a part of the State revenues, the national treasury is to be reimbursed in the amounts collected by the treasury of the State. By this order your letter of the 27th of last April is now answered. May God have you in His keeping many years.

Fuerte, May 9, 1825.

TOMAS ESCALANTE,  
*Deputy Secretary.*

JOSE DE JESUS ALMADA,  
*Deputy Secretary.* [Rubricas.]

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## EXHIBIT J.

In the Court of Private Land Claims.

MAISH & DRISCOLL	} No. 6. Canoa and Buenavista grants.
<i>vs.</i>	
THE UNITED STATES.	

Conveyances vesting title in Maish & Driscoll to Canoa grant.

1. Thomas Ortiz to Maish & Driscoll. Deed dated November 18, 1876. Recorded Nov. 18, 1876, Book 3, R. E., page 607, Pima County,



Arizona. Consideration, \$1,100. Conveys his one undivided half of the premises described above. Deed duly acknowledged.

2. Will of Tomas Ortiz, filed in office of U. S. surveyor-general February 12, 1880.

3. Ignacio P. Ortiz and Ana M. Ortiz, heirs at law of Ignacio Ortiz, to Maish & Driscoll. Deed dated August 13, 1883. Recorded August 13, 1883, Book 8, R. E., pages 690, 691, and 692.

4. Joseph M. Yancey and Ana J. Ortiz de Yancey, his wife, heir at law of Ygnacio Ortiz, to Maish & Driscoll. Deed dated August 30, 1883. Recorded Sept. 11, 1883, Book 12, R. E., pages 23 & 24. Recites the death of Ignacio Ortiz, and as heir at law conveys all right, title, and interest to an undivided  $\frac{1}{2}$  of the premises described above, as does deed last above set out from Ignacio P. Ortiz and Ana M. Ortiz to Maish & Driscoll, each of said deeds being duly acknowledged.

5. Narsizo Martinez and Mariana Ortiz de Martinez, his wife, heirs at law of Ignacio Ortiz, to Maish & Driscoll. Deed dated August 21, 1883. Recorded Sept. 11, 1883, Book 12, R. E., pages 1 & 2. Recites the death of Ignacio Ortiz, and as heir at law conveys all right, title, and interest to an undivided one-half of the premises described above. Consideration, \$750. Deed duly acknowledged.

C. W. WRIGHT,  
ROCHESTER FORD,  
*Attorneys for Maish & Driscoll.*

No. 6 (F. No. 17). Maish & Driscoll *vs.* United States. Derailment of title to Canoa grant. Filed in the office of the clerk Court of Private Land Claims. Filed March 10, 1894. Jas. H. Reeder, clerk, by R. L. Long, deputy.

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# EXHIBIT K.

Principal administration of stamped paper of Sonora.

Seal, fourth  
Biennium of

One real.  
1852 and 1853.

Habilitated in conformity with article 41 of the law of November 23, 1836. Ures, February 3rd, 1853.

No. 6557. Note was taken at folio 3 of the proper book.

LUCAS ARVIZU. [Rubric.]

MANUEL SANCHEZ. [Rubric.]

To the TREASURER-GENERAL:

We, Francisca Fernandes, widow of the late Captain Francisco Villaseca, and Jose Elias, as agent of Don Tomas Ortiz, as per the accompanying letter of attorney, duly and respectfully present ourselves before your excellency and state that a few days ago Don Joaquin Quiroga surveyed some lands in the jurisdiction of Tubae for Don Joaquin Astiazaran, as we have learned, in which he included the lands of San Ignacio de la Canoa, without citing or hearing us, perhaps because he did not know they belonged to private property. We do not forward to your excellency the title of property that proves this our dominion in order



not to expose this document to the peril of the road, but we have the honor to inclose a certificate which proves its existence. In view of this:

We pray the well-accredited justification of your excellency to declare as void the said survey of Quiroga in the part which has been prejudicial to us, that is to say, in all the land which is not of that which he has taken from our parties, since in this it is a matter of justice we ask, protesting that we do not proceed in bad faith, etc.

Hermosillo, May 7, 1853.

(Signed)

JOSE ELIAS. [Rubric.]

At the request of Mrs. Francisca Fernandes,

JOSE M. SERMENO. [Rubric.]

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EXHIBIT L.

Principal administration of stamped paper of Sonora.

Seal fourth  
Biennium of

One real.  
1852 and 1853.

Habilitated in conformity with article 41 of the law of November 23rd, 1836. Ures, February 3rd, 1853.

No. 6554. Note was taken at folio 3 of the proper book.

LUCAS ARVIZU. [Rubric.]

MANUEL SANCHEZ. [Rubric.]

I, Jose Toribio Menendas, alternate alderman of this city, certify that Don Jose Elias and Mrs. Francisca Villasecusa, widow of the late Captain Don Francisco Villasecusa, have presented to me a title to a grant of four sitios of land compromised in the place called San Ignacio de la Canoa, in the jurisdiction of Tubac, issued in favor of Don Ignacio and Don Tomas Ortiz, which document is executed in due legal form by the treasury-general of the State, on the second day of the month of February of the year eighteen hundred and forty-nine, which I have returned to the parties in interest after having made this minute, which at their request I execute in said city of Hermosillo on the seventh day of the month of May, eighteen hundred and fifty-three, which I sign with my attending witnesses.

(Signed)

J. MENANDES. [Rubric.]

Attending witness:

JOSE MARIA PEREZ. [Rubric.]

Attending witness:

JUAN J. ENCINAS. [Rubric.]

124

EXHIBIT M.

TUCSON, April 20, 1853.

MR. JOSE ELIAS:

BELOVED NEPHEW: I write you this informing you that having a tract of land called San Ignacio de la Canoa, 4 leagues distant from Tubac, on the highway to this colony of Tucson, and my brother Ignacio having sold his part to the late Captain Don Francisco Villasecusa,

he left the expediente with him, said Villaescusa. I beg you to go to the house of the widow of said Villaescusa and ask her for the expediente to present it to the treasury or to the commissioner of the survey, Don Joaquin Quiroga, who resurveyed said land in favor of the governor, Don Manuel Maria de Gandara. I have not been notified to appear with the expediente to defend my boundaries, and so, if it appears best to you to do it as my agent, you can present it in my name to the treasury before the term of 90 days expires, although I do not know when it expires, since it was surveyed; first, because I was not notified; second, because I was in Tubtama. I knew from the outside sources that it was surveyed, and I have also known that the survey of Sopori has not yet been concluded, because they were short of animals; and so it is that you may tell me how I ought to do it, or send me a rough draft of the manner in which I ought to present it, whether to the treasury or to the commissioner of the survey, or do it yourself directly, as agent; and you will ask the giver of this at what time he departs, that you may reply to me in regard to the matter.

I also beg of you to inform me of political affairs; here nothing is known; or send me some printed matter. I entreat you to do for your uncle as much as may be in your power, or tell me that I may not err. I would go with friend Juan Elias, but we are without an animal and the roads so critical because of the enemy. and with best regards to the cousin and the rest of the family, command your uncle, who esteems you and wishes for you the greatest happiness.

(Signed)

THOMAS ORTIZ. [Rubric.]

125

*An exhibit for the U. S. (Not marked.)*

Testimony of Jesus Maria Elias.

JESUS MARIA ELIAS, first being duly sworn by the surveyor-general, deposed as follows in response to interrogatories by the United States surveyor-general:

Q. 1. What is your name, age, place of residence, and occupation?

A. Jesus Maria Elias; age, fifty-one years; reside in Tucson; farmer by occupation.

Q. 2. Do you know of a ranch in Arizona by name "El Sopori" and alleged to have been granted to Joaquin de Astiazaran?

A. I know the ranch of Sopori as alleged to have been granted to Joaquin de Astiazaran.

Q. 3. How many leagues are embraced in said rancho?

A. I do not know how many square leagues it contains. I only know the boundaries as marked out by the surveyors sent by Astiazaran and Cubillas. From north to south it is about eight leagues.

Q. 4. Do you know when the said rancho was measured in pursuance of the alleged proceeding under the Mexican Government for title?

A. I do. It was measured about the last of December, 1848, or about the first of January, 1849.

Q. 5. Do you know who made such measurements?

A. I do. Joaquin Quiroa, surveyor; Juan Manuel Levara, Leonardo Oroasco, and Alphonso Figueroa, assistants. There were other persons present, but I do not remember their names.

Q. 6. Do you know where the aforesaid measurers placed the boundary monuments to mark "El Sopori" ranch?

A. I know the monuments on the north.

126 Q. 7. Where did you reside when the said measurements were made?

A. I resided in Tucson.

Q. 8. Where were you at that time?

A. I was at San Xavier, stopping over night, when the said measurers came in from making their measurements. They stopped in the same house I did, and I heard them talking about said measurements.

Q. 9. Was it then understood among the Mexican people that a grant of "Sopori" was made in good faith?

A. It was generally understood at that time among officers and military men that the grant was not made in good faith but in anticipation of a change of government.

Q. 10. What has been the opinion of well-informed Mexican people since 1848 or 1849 regarding the validity of said "El Sopori" grant?

A. Prior to 1848 the land of "Sopori" was considered as belonging to the community of Tubac. From 1848 to the present time, among intelligent people of the country, the opinion has been general that these measurements were made without any right, in anticipation of the future profit that might be derived therefrom. It was understood that the said measurements of "Sopori" were made for Astiazaran and Cubillas.

(Signed)

JESUS MA. ELIAS.

Subscribed and sworn to before me this 29th day of November, 1880, as witness my hand and seal of office.

[SEAL.]

JOHN WASSON,  
*United States Surveyor-General.*

OFFICE OF SURVEYOR-GENERAL,  
*Tucson, Ariz., April 3, 1895.*

I hereby certify that the paper attached hereto is a correct copy of the paper it purports to be a transcript of on file in this office.

[SEAL.]

LEVI H. MANNING,  
*U. S. Surveyor-General, District of Arizona.*

127

EXHIBIT BB.

GUAYMAS, *July 8th, 1857.*

JOHN R. BARTLETT, Esqr.,  
*Providence, R. I.*

MY DEAR SIR: It was my intention to have written you immediately on my arrival here in March last, but constant occupation at first & sickness afterwards have prevented me from doing it until to-day.

During my absence of one year many changes had taken place in Sonora, and a revolution of a most pernicious influence in general had just terminated, leaving this poor country in a most deplorable condition, affecting our commercial, agricultural, and mining enterprises most

unfavorably, and leaving our working classes in great misery from their extreme poverty. Matters were improving, nevertheless, gradually and our prospects brightening. With the beginning of last April a Mr. Henry Crabb presented himself at Caborca, near the frontier of our State, at the head of some eighty men in a filibustering expedition; rumors of his departure from California had reached us previously, as also that he would be followed by other friends by sea. Although no formal preparations of resistance were made, still there was a sufficient force near Caborca to completely annihilate Crabb and his band, all of which, except those killed in battle, were executed on the following day of their capture, thus setting forth a terrible example to future expeditionists. Our government fearing that this party of Crabb's was only the vanguard of a more formidable band, concentrated at Alcar a considerable force, 128 composed principally of volunteers or "Guardia Noche," as also in this port preparatory of an attempt by sea. Fortunately for all, this has terminated with the tragical "finale" of Senator Crabb, but as our armed forces consisted principally of our working classes, they have not yet fairly returned to their occupations, and we are still experiencing the evil effects of this latter calamity. One of our principal evils has in a manner been reduced (I have reference to the repeated disastrous incursions of the Apaches) from the presence on this frontier of the American military post under command of Major Stein, and we may hope that in the course of a few years we will feel the beneficial effects of the presence of our American neighbors.

Since my return numerous and various have been the reports of the sale of this State and others to your Government, and we have once or twice been induced to believe that there was some truth in the statements, but the result is that nothing of the kind has thus far transpired, nor is there a probability of a treaty of such a nature being agreed to by our present president, Cumrefort, who is likely again to be elected for November next, his views in this matter having been expressed publicly, and they certainly are not favorable to the prospect of those who desire the sale of our State. This circumstance, and that of the slow progress of the grand project of the Pacific Railroad, have contributed here to maintain the value of our extensive properties in the various districts of this State and of the Gadsden purchase in statu quo. We presume that, matters being very much the same with you, you will not have made much progress in the negotiation of our property, the title deeds of which you have in your possession; nevertheless, we would be most happy to have you express 129 your views as regards the practicability of negotiations of some nature. As we are confident that at some future day *day* all this property must be of immense value, we lose no opportunity of extending our rights over other tracts which we consider of worth; we have just purchased the lands called San Ignacio de la Canoa. You are well acquainted with this tract, as you passed through it on your way from Tubae to Tucson.

We now beg to hand you annexed the following documents, that in case of necessity may serve you to further substantiate the legality of our titles:

A certificate of our present Governor, Licenciado Jose de Aguilar, and duly legalized by the French consul of this port, testifying that the "Paso

de los Algodones" was legitimately granted to Fernando Rodrigues by Jose Justo Milla, then legally in charge of general treasury of the State, also testifying to the signature of Jose Ma. Mendoza, attached to such document.

Another certificate of our present governor testifying to the same points in the titles of "San Ignacio de la Canoa."

Another from the same person concerning the "Sopori" tract.

Also one from the French consul certifying that we have had no American consul in the port since the year 1854. Finally we inclose—

Certified copy of the title deed of the property called "San Ignacio de la Canoa."

We have not been able to inform ourselves with certainty where these titles of property now in the American territory should be registered, consequently we have thus far taken no steps towards affecting the same, and we now have to beg of you that if it be in your power you have such titles registered and entered before the competent authorities, and if this can not be from the absence of sufficient powers from us, 130 we then have to request that you will at your earliest convenience instruct us as to the mode of proceeding to be enabled to properly legalize our titles in conformity with the laws of the United States. In the event of a period having been fixed for the final presentation of such title before certain authorities, and which might expire before it would be in our power to comply with the same, we have to ask of you the favor to take necessary measures in the premises for the protection of our interests. We are all of us convinced that unless we with our own capital put into negotiations our lands and mines their value can not be enhanced, except through the want of a railroad, military post, or Govt. colonization being established in them or in their vicinity, but as such event we fear are still distant. Could you not suggest some mode of employing profitably some part of our valuable tracts of land, through sale or otherwise, or the establishment of a company with sufficient capital for the working of our mines, particularly that of the "Ajo," its richness and abundance of metals being a sufficient inducement for a profitable enterprise. Have you no friends who would wish to employ their capital with a sure result of profit, once put into train all our operations? To such persons we could make very liberal concessions of our rights and interests. Please take earnestly into consideration our observations and indicate to us some means of profitably employing our property. As I mentioned to you when I had the pleasure of a personal interview, we do not expect you to exert yourself and spend your valuable time and influence in our behalf without a certain remuneration, and we are most willing to compensate liberally your services, interesting you in our properties proportionately.

Your vocabulary of Indian languages has been sent to the bishop 131 of Lower California, as a person most capable of such a task, whom we have requested to furnish us as early as possible the requisite information, and when received it shall be duly forwarded you.

With the kindest regards of my father and of Mr. Cabillas, and expecting soon to hear from you, I remain, dear sir, yours, very truly,

THOS. ROBINSON.

This goes by the way of San Francisco to be forwarded you by express. Should you have communications of interest to send us, we would suggest their being remitted to San Francisco to the care of Messrs. Peck, Rodgers & Co., our agents there, who will have the same sent us immediately.

Please bear in mind that in possession of Messrs. John Warren & Sons, of Wall street, New York, you have at your disposal a small case of the sample metals of our mines.

Upon second consideration we deem it essential that the certified copies of the titles of property we own within the limits of the United States be registered in some public office to enable us to refer to them in case of loss, doubt, or any other unforeseen event. Therefore I would feel particularly obliged to you if you would take the pains to have the titles I left with you, also those of the Canoa and the corresponding certificates now annexed, formally registered in the land office in the city of Washington or in some other office of registry in the capital, taking receipts or certificates of such registry in duplicates, sending me one of each  
132 at your earliest convenience. This may not be the proper course to adopt, but it will show a desire on our part to comply with the registry law, and when a regular office of registry is established in the Gadsden Purchase we can again enter our titles, referring to the registry already made at Washington.

Since writing the foregoing we have received further valuable documents strengthening our titles of the Sopori and Paso de los Algodones tracts, which we annex herewith. You will observe that these vouchers consist of certificates given by ex-general treasurer of this State, Sr. Jose Ma. Mendoza, and in them he states in virtue of what decrees and laws these concessions were legitimately made. Both of these certificates are testified to by the French consul of this port.

It is hereby stipulated that the signature of Thos. Robinson to the foregoing letter is genuine.

ROCHESTER FORD,  
*Attorney for Maish & Driscoll,*

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EXHIBIT CC.

Ex. E, June 16, 1881.

U. S. SURVEYOR-GENERAL'S OFFICE,  
*Tucson, Arizona, September 16, 1880.*

EDWARD M. SHEPARD, Esq.,

*Atty. "Sopori," Land & Mining Co., 120 Broadway, New York City.*

DR. SIR: In reply to your inquiry of the 1st instant as to "what" course is likely to be taken in the "Canoa," I have to say:

1. The attorneys for Maish & Driscoll and the Ortiz heirs have requested time to investigate the facts concerning the conveyances to the *Canoa* to your company, and as I could grant them some months and still get my supplemental report before Congress in December, I have verbally permitted them to take such time, without any exact limitation.

2. Not later than November 1, ensuing, I shall forward a supplemental report in the "Canoa" Case, and recommend confirmation to the legal representatives of the original grantees, deeming this the wisest course.

It is not at all likely the attorneys aforesaid will indicate to this office an entire abandonment of their clients' claim or title to the land, and unless they should it would be of no advantage to your company for me to recommend confirmation to it. I shall accompany my report with certified copy of your petition, and present reasons for the change in my recommendation. Should the attorneys for Maish & Driscoll and the Ortiz heirs file an amended petition or brief in the case, I will, as a matter of course, forward copy duly certified. Your company having presented the original expediente, I shall so state, and also state that if any doubt before existed as to the validity of the grant, it is now removed.

In reply to yours of the 6th instant, received this morning, I have to say that Mr. Hopkins has not given any testimony in "Sopori" Case, and it is not my purpose to put him in the attitude of a witness in it. My letter to you yesterday contains the important facts obtained and reported to me by Mr. Hopkins under special orders from me directing him to make a critical inspection of the original papers and records in Hermosillo, &c.

Very respectfully,

JOHN WASSON, *Sur. Genl.*

(Endorsed :) No. 37. E. 16 June, 1881. Recorded in Journal, vol. 3, page 389, 390.

OFFICE OF SURVEYOR-GENERAL,  
*Tucson, Arizona, March 26th, 1895.*

I hereby certify that the paper attached hereto is a correct copy of the paper it purports to be a transcript of, on file in this office.

[SEAL.]

LEVI H. MANNING,  
*U. S. Surveyor-General, District of Arizona.*

It is hereby stipulated that the supplemental report referred to in the foregoing letter was not made, so far as is shown by the records of the surveyor-general's office.

ROCHESTER FORD,  
*Attorney for Maish & Driscoll.*

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EXHIBIT DD.

Sello tercero.

Cuatro reales.

Años de mil ochocientos cuarenta y ocho y mil ochocientos cuarenta y nueve.

Digo yo, Ygnacio Ortiz, vecino del pueblo de Tubutama y residente en la actualidad en esta capital, que por la presente otorgo quedo á, y traspaso por rason de venta, y enagenacion perpetua desde *haora* para siempre en favor del Sor. capitan y agudante Ynspe'tor D. Francisco Villacescusa, igualmente residente en la misma ciudad, la parte media de cuatro sitios, que en vnion de mi hermano D. Tomas, tenemos registrados en el paraje nombrado San Ygnacio de la Canoa, en comprehencion del presidio de Pimas de Tubac, desde el año de 1821 -y hasta el 2 de febrero del año corriente se nos espidido el correspondiente titulo, el que entrego al comprador, por la cantidad de ciento y cincuenta pesos, que á mi entera satisfac'ion tengo recibido en vestas mulares, por haverme asi



combenido, asegurandole al citado comprador, qe. la parte del enpresado rancho, no reconose gravamen ni pencion alguna, asi como que los citados ciento, y cincuenta pesos, en la especie q. arriva es preso es el justo y legitimo valor del susodicho rancho; pero q. si mas valiere por cualesquiera otra razon, del eseso ó demacia, en poca ó mucha cantidad, hago gracia, y donacion al comprador, y á los que en derecho le sucedan; renunciando en cuanto al mas ó menos de su valor, la ley de ordenamto. real fho. en Alcalá de Henares, fuintamte. con los cuatro años que el derecho concede pa. pedir la recision ó suplemento del contrato. Y en fé de todo lo espuesto, me desapodero, quito, y aparto, asi como á todos los mios del derecho dominio y propiedad que reconocia sobre el enunчиado rancho, y todo lo sedo renuncio y traspaso como llevo dho. en el comprador quien á mas de haser el uso qe. le pareciere de dicho

136 rancho, podra enagenarlo segun su voluntad, en el concepto, de que para mayor seguridad del contrato me someto de grado, con mis vienes havidos y pr. haver al conscimiento, de los Sres. Jueses que de mis causas puedan conocer, y en especial á los de esta ciudad pa. q. al cumplimiento de todo lo espuesto, me conplar y apremien, como si fuera por sentencia dada en autoridad de cosa juzgada consentida, y no apelada, renuncio la ley, escambenerit &a., el fuero de domicilio y vecindad, con las generales del derecho, asi lo otorgo en esta escritura estrajudicial, á la ques es mi voluntad sele de toda su fée y fuersa en esta ciudad, de Ures á los nueve dias del mes de febrero de mil ochocientos cuarenta y nueve, ante los testigos presenciales que lo son mi hermano D. Tomás, D. Franco. Lamadrid, y D. Miguel Heredia.

YGNACIO B. ORTIZ. [Rubrica.]

TOMAS ORTIZ. [Rubrica.]

FRANCO. [Rubrica.] LAMADRID. [Rubrica.]

MIGL. EREDIA. [Rubrica.]

Contiene una escritura de traspaso qui hizo Dn. Ygo. Ortiz al Capitan Dn. Franco. Villaescusa de la parte que tenia en cuatro sitios nombrados las Canoa.

137 (Endorsed:) Sopori Co. paper, introduced in San Ygnacio de Canoa Case. Recorder's office, Tucson, Pima County, A. T. Filed and recorded at request of E. M. Shepard, June 21st, A. D. 1881, at 10 a. m., book 10, deeds R. E., pages 413, 414, 415, and 416. Chas. R. Drake, county recorder.

"La Canoa." Recorder's office, Tucson, Pima County, A. T. Ignacio Ortiz to Francisco Villascusa. Filed and recorded at request of E. M. Shepard, June 28, A. D. 1880, at 2.30 p. m., in book 7, Deeds Real Estate, pages 117, 118, 119. S. W. Carpenter, county recorder, by W. S. Read, deputy. Filed Sur. Genl's Office, Arizona, July 17, 1880, 2.30 p. m. I. R. Farrell, chief clerk.

138 EXHIBIT DD. (TRANSLATION).

Contains a deed of conveyance executed by Mr. Ygnacio Ortiz to Captain Francisco Villaescusa relating to the title he held to half of four ranches known as La Canoa.

(Here is a stamp seal.)

I, Ygnacio Ortiz, resident of the town of Tubutama, formerly but at present in this city, hereby depose, in all due form of law, that it is my free will and volition to sell and transfer and perpetually to convey, on behalf of Captain Francisco Villaescusa, also a resident of the same city, of half of my title in four ranches, which I own and possess jointly with my brother Mr. Tomas Ortiz, we had laid a claim to, situated in the place known as San Ygnacio de la Canoa, within the radius of the military post of Tubac, as far back as 1821, and it was not until the 2nd day of February of this year, the corresponding title thereto was not issued to us, for the sum of one hundred and fifty, which amount I hereby acknowledge to have received in full and satisfactorily, in the shape of a certain number of mules, since this manner of payment was the best suited to my purposes, guaranteeing that my share in the aforementioned ranch is entirely free and unincumbered and likewise that the price of one hundred and fifty dollars, in the manner in which I have preferred to take, is the just and legitimate worth of said ranch; but if it were worth more even, of such excess or balance I hereby freely donate on behalf of the buyer and his legal successors, renouncing all lawful exceptions in of sellers of this kind of property, as well as the period of four years conceded by law, to demand the rescinding or supplement of contracts. And in attestation of all the foregoing, I hereby withdraw, retire, and quit myself, and all of mine, from all contact,

interference, or concern therein to which I laid claim heretofore,  
 139 in said ranch, dispossessing myself in behalf of the buyer, who, besides making whatever use he may see fit of the said ranch, managing it at will, sell, exchange, and donate the same at his volition; pledging myself of my own free will, with all my present and future possession, liable before any court of law for any counter-claim, urging upon all judges, present and future, the summary enforcement of any lawful claim against me arising therefrom, as if it were a cause adjudged and whose verdict had already been entered without appeal. Finally, I freely renounce the right of domain and residence, with all general ones in behalf of the seller or settler; thus it is my wish to consign in this extrajudicial document, which it is my desire to give to all the legal force and binding effect, in this city of Ures, on the 9th day of February, eighteen hundred and forty-nine, before witnesses who signed it with me.

YGNACIO B. ORTIZ.

TOMAS ORTIZ.

FRANCISCO LAMADRID.

MIGUEL HEREDIA.

A Soporí Co. Paper introduced in the San Ygnacio de la Canoa Case.

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# EXHIBIT EE.

Matias Moran, escribano publico nacional, Estado de Sonora. (Cin-cuenta centavos. Revenue stamp. Hermosillo, junio 4 de 1881.)

Matias Moran, escribano publico nacional y con officia abierto en esta ciudad, la de Ures y el puerto de Guaymas desde el año de 1857 hasta esa fecha:

Certifico que conoci perfectamente durante su vida y personalmente, á los Señores Ygnacio B. Ortiz, Tomas Ortiz, Francisco Lamadrid y

Miguel Eredia, el primero de los que aparecen en el adjunto documento y traspaso, como vendedor, y los demás como testigos suscritos; que todos los dichos individuos, han fallecido; que les vi escribir y firmar en diversas ocasiones conozco perfectamente bien la letra y firma da cada uno de dichos individuos, en fin, que conozco y creo que el nombre "Ygnacio B. Ortiz" suscrito en dicho documento y traspaso como vendedor, es de puño y letra del Señor Ygnacio B. Ortiz, y que los nombres "Tomas Ortiz, Francisco Lamadrid y Miguel Eredia," suscritos como testigos en dicho documento y traspaso, so' respectuamente de puño y letra de dichas personas; que aunque no me consta ocularmente que dichos individuos fallecieran, tal circunstancia llegó á mí noticia por algunas personas que los conocieron y me dijeron que habian muerto.

Ygualmente certifico que he examinado dicho documento y traspaso adjunto y lo encuentro extendido en la forma y con los requisitos legales, siendo el documento expresado, válido en todos respectos y título perfecto.

Y para que obre la fé necesaria donde convenga á pedimento del Señor lianciado, J. Hampden Dougherty, extendiendo la presente en la ciudad de Hermosillo, capital del Estado de Sonora, Republica Mexicana á los cuatros dias del mes de junio del año de mil ochocientos ochenta y uno, firmado de mi puño y sellado con el sello de mi oficia publico.

MATIAS MORAN, [Rubric.]  
E. P. N.

[L. S.]

(Matias Moran, escribano publico nacional, Estado de Sonora.)

(Seal of consulate of the U. S., Guaymas, Mexico.)

CONSULATE OF THE UNITED STATES,

*Consular District of Guaymas, Mexico, ss:*

I, Alexander Willard, consul of the United States for Guaymas, Mexico, and the dependencies thereof, do hereby certify that on this fourth day of June, A. D. 1881, at Hermosillo, Sonora, and within my consular jurisdiction and district, before me personally appeared Matias Moran, of said city, to me personally known, and who signed the foregoing deposition in my presence, who being by me duly sworn did depose and say that the contents of the foregoing deposition are in all respects true.

In witness whereof I have hereunto set my hand and the seal of said consulate, at Hermosillo, this fourth day of June, A. D. 1881.

A. WILLARD,  
Consul.

(Seal of consulate of U. S. at Guaymas, Mexico.)

142

EXHIBIT FF.

1858.

Escritura de venta de dos sitios de tierra para cria de ganado mayor y caballada en el punto llamado "La Canoa" sito en el territoris de los Estados Unidos de Gadsden Purchase entre las poblaciones de Tubae y Tucson, Otorgada por Don Juan Moreno á nombre de su esposa y demás

herederos menores de su finado padre político Don Francisco Villaescusa, á favor de Don Fernando Cubillas.

Oficio publico y de hipotecas del partido de Hermosillo en el Estado de Sonora.

143 No. 78 para actuaciones.

Sello segundo.

Habilitado para los años de mil ochocientos cincuenta y ocho y cincuenta y nueve.

Valle cuatro pesos.

Administracion principal de Sonora. Guaymas, agosto 10 de 1858.

M. PANDE.

THOS. ROBINSON.

En la ciudad de Hermosillo á las trece dias del mes de noviembre de mil ochocientos cincuenta y ocho, ante mi el infrascrito escribano nacional y publico y testigos que se espresarán, compareció Don Juan Moreno, mayor de edad y vecino del pueblo de Seris, y dijo: Que a nombre de su esposa y demás herederos menores de su padre político el finado Don Francisco Villaescusa, de quienes es tutor y de cuyo testamento es el primer albacea, dá en venta á Don Fernando Cubillas, así mismo mayor de edad y vecino del puerto de Guaymas, dos sitios de tierra para cria de ganado mayor y caballada en el punto llamado "La Canoa," sito en el territorio de los Estados Unidos de Gadsden Purchase entre las poblaciones de Tubac y Tucson, cuyos dos sitios están comprendidos en un titulo de consecion de cuatro sitios dados á los Señores Don Tomas y Don Ygnacio Ortiz por las autoridades de este Estado de Sonora, cuyo lituo de consecion ha entregado ya al espresado Señor Cubillas; que los límites de dicho terreno están espresificados en el referido titulo de consecion, y por tal motivo no hay necesidad de fijarve en esta escritura, cuyos terrenos declara que no están vendidos, esta genados ni hipotecados, y como tales se los vende con todas sus entradas y salidas, usos, servidumbres y demás cosas anexas que han tenido, tienen y les pertenecen segun derecho, por la cantidad de quinientos pesos que tiene recibida á su entera satisfacion, tomo lo jura en solemne forma de que

144 doy fé, y como pagado y satisfecho de ella, mormaliza á favor del comprador la más eficaz carta de pago que á su seguridad conduzca, con espresa renunsiacion de la ley novena, titulo primero, partida quinta. Así mismo declara que la espresada cantidad de quinientos pesos, es el justo y verdadero valor de los mencionados dos sitios, cuyo dominio y propiedad renuncia, cede y traspasa, á favor del enunciado Don Fernando Cubillas para que disponga de ellos como cosa suya, adquirida con justo y legitimo titulo, y para que tome la posesion que de dere'ho le corresponde; y finalmente se obliga á la eviccion y saneamiento de esta venta en legal forma. Y en el mismo acto Don Fernando Cubillas dijo: que aceptaba esta escritura en todas sus partes, obligando ambos otorgantes al cumplimiento de lo que en ella se espresa, todos sus bienes presentes y futuros, declarando que no habia lesion ni engaño, y que si la hubiese en mucha ó conta cantidad, se hacen mutuamente donacion pura é irrevocable, renunciando la accion y el termino que para ejercitarla les conseden las leyes. Así lo dijeron y firmaron los señores otorgantes á quienes doy fé conozco, habiendoles advertido que de esta escritura debia tomarse razón en el oficio de hipotecas de este partido dentro de ocho dias, bajo pena de nulidad, siendo testigos Don Lorenzo

Aguayo, Don Romulo Morales, y Don José Bernal, residentes y vecinos de este lugar; doy fé.

JUAN MORENO,  
F. CUBILLAS.

Testigo: LORENZO AGUAYO.

Testigo: ROMULO MORALES.

Testigo: JOSE BERNAL.


Ante mi. MATIAS MORAN,  
*Escribano Nacional y Publico.*

Se sacó del protocolo de instrumentos publicos de mi cargo despues de su otorgamiento para entregar al comprador. Y en fé de ello, yo, el infrascrito escribano nacional y publico, vecino de la ciudad de  
145 Ures y residente en esta, doy la presente copia original que signo y firmo en dos pojas de papel del sello segundo bienio corriente, quedando su matriz, a que me refiero, en el registro del sello tercero, y anotada en el esta saca, que es dada el mismo dia de su otorgamiento.

Corregido.

En testimonio de verdad.

MATIAS MORAN,



E. N.  
Y. P.

[Rubric.]

Queda tomada razon de esta escritura en el officio de hipotecas de este partido, que es a mi cargo, desde la poja 2, vuelta a la 3, frente del libro respectivo.

Hermosillo Noviembre 13, de 1858.

MATIAS MORAN.  
E. N.  
Y. P.

(Endorsed:)

"La Canoa." Recorder's office, Tucson, Pima County, A. T. Widow and heirs of Francisco Villaescusa to Fernando Cubillas. Filed and recorded at request of E. M. Shepard, June 28, A. D. 18 at 2.30 p. m., in book 7 Deeds, Real Estate, pages 125, 126, 127, 128. S. W. Carpenter, county recorder, by W. S. Read, deputy. Filed Sur. Genl's Office, A. T., July 17, 1882, 2.30 p. m. J. R. Fanell, C. C.

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EXHIBIT FF (TRANSLATION).

Indenture of conveyance of the ranches devoted to stock raising in the place known as "La Canoa," within the territory of the United States, at Gadsden Purchase, between the post of Tubac and Tucson, executed by Mr. Juan Moreno, in representation of his wife and heirs at law of his late father-in-law, Mr. Francisco Vaillaescusa, in behalf of Mr. Fernando Cubillas. Recorder of mortgages, of Hermosillo County, in the State of Sonora.

In the city of Hermosillo, on the thirteenth day of November, eighteen hundred and fifty-eight, before me, the undersigned notary public, and requisite number of witnesses, hereinafter cited, Mr. Juan Moreno, whom I know to be of age and a resident hereat, deposes, to wit, that in representation of his wife and other heirs at law of his late father-in-law, Mr. Francisco Vaillaescusa, who' tutor he is, and of whose will, he, the executor and administrator, hereby give in public sale to Mr. Fernando Cubillas, resident of Guaymas, two ranches, suitable for stock raising, in the place known as "La Canoa," situated in the territory of the United States at Gadsden Purchase, between the posts of Tubac and Tucson, the foregoing two ranches being part and parcel of a grant of a certain tract of land, comprising four ranches, awarded to Messrs. Tomas and Ygnacio Ortiz by the State of Sonora, and which has been delivered into the keeping of the forementioned Mr. Cubillas; furthermore, that the boundary lines of said parcel of land are set forth in the above title of grant, and for said reason it would be superfluous to detail in this conveyance; declaring that said land has not been sold to anyone else, and is neither pledged, mortgaged, or incumbered in any manner whatsoever, and that

147 as such the deponent sells it, with all its rights, usages, means of ingress and egress, and all other appurtenances thereto, according to law, in consideration of the sum of five hundred dollars, which deponent declares to have received to his entire satisfaction, as solemnly sworn to, which I hereby attest, and as in ful' receipt thereof the deponent records this indenture of conveyance, with unqualified renouncement of law ninth, first title, fifth section; furthermore, declares the forementioned sum of five hundred dollars to represent the maximum worth thereof, whose domain and proprietorship hereby renounces, cedes, and conveys to Mr. Fernando Cubillas, to dispose thereof as his own, acquired under just and legitimate right, to take possession thereof, as legally entitled; finally, deponent pledges himself to cause said possession to be given, ejecting all other holders, tenants, &c., with all the means he stands in possession of or may at any future time acquire; disclaiming all fraud and deception, and that should there result any discrepancies in his favor the same are freely conceded and donated to the purchaser, as all exceptions and immunities accruing to holders of such property under the laws. Thus deponent expressed himself, and was notified that this deed of conveyance should duly recorded at the register of mortgages and liens, within eight days from date. I hereby attest the foregoing in all due form of law.

JUAN MORENO.  
F. CUBILLAS.

Witnesses:

LORENZO AGUAYO.  
ROMULO MORALES.  
JOSE BERNAL.

Before me.

MATIAS MORAN, *Notary Public.*

The foregoing is a true copy of the original recorded on the third stamp seal book on application of the purchaser. I hereby attest the foregoing.

MATIAS MORAN, *Notary Public.*



The foregoing has been duly entered upon the records at this register of mortgages, at Hermosillo, November 13th, 1858.

Given under my hand, &c.

MATIAS MORAN, *Notary Public.*

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EXHIBIT GG.

Sello tercero.

Cuatro reales.

Años de mil ochocientos cincuenta y cuatro y mil ochocientos cincuenta y cinco.

En la ciudad de Hermosillo, á once de diciembre de mil ochocientos cincuenta y cuatro, ante mi, el escribano y testigos que se espresaran comparecieron Don Tomas Ortiz y Don Fernando Rodrigues, ambos mayores de edad y vecino el primero del Tucson y el segundo de esta ciudad y dejaron: Que consutrando sus reciprocos intereses tienen concertadada la venta de dos sitios de cria de ganado mayor que el primero posee y están sitos en el rancho nombrado "La Canoa," jurisdiccion del precidio de Tubac en la frontera; que dichos dos sitios pertenecen al otorgante por haberlos registrado junto con otros dos sitios en union de su hermano segun consta de los titulos respectivos que no presenta por estas en los pueblos de su residencia, pero que oportunamente mandaro al comprador un tanto de los espresados titulos para su resguardo; que dicho rancho linda por el norte con la mision de San Javier, por el sur con el precidio de Tubac y por el oriente y poniente con el Sopori; y todo lo que mas por menor resulta de los espresados titulos, en virtud de los cuales pertensean dichos dos sitios al espresado Don Tomas Ortiz en pleno dominio. Y para llevar á efecto la referida venta en la via y forma que mas haya lugar en derecho, el referido Don Tomas, otorga: Que dá en venta Don Fernando Rodrigues, los mencionados dos sitios; que declara no tenerlos vendidos, ni enagenados ni hipotecados, que están libre de toda clace de responsabilidad y gravamen, y como tal los vende con todas sus entradas, salidas, partos, maderas, aguages, usos, costumbres, servidumbres y demas cosas anexas que han tenido tienen y les pertensien segun derecho,

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por la cantidad de ciento cincuenta pesos que ha recibido á su satisfaccion, y como tal y pagado y satisfecho el vendedor Don Tomas Ortiz, formalira á favor de Don Fernando Rodriguez la carta de Pago, y renuncia la ley 9, tit. 1º, p. 5. Asi mismo declara que la espresada cantidad de ciento cincuenta pesos es el justo y verdadero valor de los dichos sitios cuyo dominio y propiedad renuncia, cede y traspasa en favor del mencionado Rodrigues, para que disponga de ellos como cosa cuya con justo y legitimo titulo y para que tome la posecion que de derecho le corresponde; y finalmente se obliga á la eviccion y sancamiento de esta venta. En seguida y estando presente Don Fernando Rodriguez, dijo: Que aceptaba esta escritura en todas sus partes, obligando ambos otorgantes al cumplimiento de lo que en la misma se espresa, todos sus bienes presentes y futuros, y declarando que no habia lesion, ni, engano, y que si la hubiese en mucha ò corta cantidad, se hacen mutuamente donacion pura é irrevocable renunciando la accion y el termino que para ejercitarla les conceden las leyes. Asi lo dijeron y firmaron los señores otorgantes, á quienes doy fé conozco, habiendoseles advertido que de esta escritura debian tomar razón en el oficio de hipotecas de esta ciudad dentro



de los seis dias que senalo la real pragmatico y leyes de la materia, a cuyo requisito ha de precedes el pago de alcabala, sin el cual no se puede sacar la copia antorisada siendo testigos Don Angel San Martin, Don Eduardo Morales y Don Santos Ortiz, vecinos de esta ciudad.

TOMAS ORTIZ.  
F. RODRIGUEZ.

Testigo: ANGEL SAN MARTIN.

Testigo: E. MORALES.

Testigo: SANTOS ORTIZ.

Ante mi:

JESUS GONZALES MENESES,  
*Escribano Publico de la Nacion.*

Sacose de su registro, hoy dia de su otorgamiento; va fielmente corregido y consertado en dos pojas utiles del sello tercero.

150 Sello Tercero.

Cuatro Reales.

Años de mil ochocientos cincuenta y cuatro y mil ochocientos cincuenta y cinco.  
bienio corriente.

La testimonio de verdad.

JESUS G. MENESE.

[Rubric.]

E. P. de la N.

Formada la razon en el oficio de hipotecas de esta ciudad, al folio sesenta y cuatro vuelta del libro respectivo. Hermosillo, Diciembre quince de mil ochocientos cincuenta y cuatro.

JESUS G. MENESE. [Rubric.]

Dros. sin el papel ocho pesos cuatro reales.

MENESES. [Rubric.]

(Endorsed:) Recorder's office, Tucson, Pima county, A. T. Filed and recorded at request of E. M. Shepard, June 28, A. D. 1880, at 2:30 p. m., in Book 7 Deeds, Real Estate, pages 119-122. S. W. Carpenter, county recorder, by W. S. Read, deputy.

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EXHIBIT GG (TRANSLATION).

(Here is a stamp seal.)

In the city of Hermosillo, on the eleventh day of December, eighteen hundred and fifty-four, Messrs. Tomas Ortiz and Fernando Rodrigues

appeared before me, deposing to be both of age, the former, resident of Tucson, and the latter, of this city, and that in furtherance of their interests they have agreed to sell two ranches for stock raising belonging to the former, in the place known as La Canoa, within the jurisdiction of the post of Tubac upon the frontier; that said ranches belong to deponent by reason of his having entered joint claims for two others with his brother, as per tenor of the original titles, which he does not exhibit, as they are at present in the town where he resides, but that op'ortunately he will deliver them to the buyer a true legal copy thereof for his protection; that said ranch borders on the north with the San Javier Mission, on the south with the post of Tubac, and on the west and east with the Sopori; and in every other particular the relator is fully in possession of, by virtue of which he does claim full domain; and in order to consummate said sale in due form of law, said relator conveys and gives in sale to Mr. Fernando Rodrigues the two mentioned ranches, which he declares not to have sold, pledged, or mortgaged to anyone else, and are perfectly unincumbered, with all rights of ingress and egress, uses, revenue, pasturages, trees, woods, and other appurtenances, in consideration of the payment of the sum of one hundred and fifty dollars, which he has received to his entire satisfaction, and that said sum is the maximum worth of said ranches, never having had a higher offer; the relator declares that he renounces all rights and privileges under the

152 estatute; therefore he disposes himself of his vested rights, so that the buyer may take possession, sell, exchange, donate, and use in all manner, at will, as a thing of his own, pledging himself, with his present and future means, at all times, to exert his utmost effort to protect and make good said sale. Mr. Fernando Rodrigues, in turn, manifested that he accepted the same, binding himself with the seller to the fulfillment of all its intents and purposes, now and forever, disclaiming all idea of fraud or deception, renouncing all the exceptions and rights under the estatutes; and, having paid all fees due, it was filed on the book of record before witnesses.

TOMAS ORTIZ.  
FERNANDO RODRIGUES.

Witnesses :

E. MORAN.  
SANTOZ ORTIZ.

Before me, the notary public, hereby certifies that the foregoing is a true copy of the original on file at this office, and to all intents and purposes I hereby attest the same.

JESUS G. MENENDEZ.

Duly recorded at the registrar of mortgages this day.  
Hermosillo, December fifteenth, eighteen hundred and fifty-four.

JESUS G. MENENSES.

Stamps, without those of the paper, \$8.50 (eight dollars and fifty cents).

MENENSES.

Know all men by these presents: That we, Sylvester Mowry, and Joaquin Maria Astiazaran, for himself and also for his mother, Maria del Carmen Tuigo, and Fernando Maria Astiazaran, and Manuel Cubillas for his children, the heirs of Mrs. Carmen Astiazaran, and Juan A. Robinson, and Matias Alsua, and Jose Calvo, and Fernando Rodriguez, and Antonio Rodriguez, and Fernando Cubillas, all being citizens either of what is commonly called Arizona or of Sonora, in the Republic of Mexico, in consideration of twenty-five thousand dollars to us well and truly paid by the Sopori Land and Mining Company, a corporation created by the laws of the State of Rhode Island and Providence Plantations, and located in the city and county of Providence, in said last named State, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, remise, release, convey, transfer, assign, and deliver to the said Sopori Land and Mining Company, their successors and assigns, all the right, title, interest, and claim that we, or either of us, grantors have, or of right ought to have, in and to about four square leagues (be the same more or less) of land, with the mines, buildings, privileges, and appurtenances thereon, being or thereunto in anywise belonging or appertaining, situate in what was formerly a part of the Mexican State of Sonora, but which is now called Arizona, and within the jurisdiction of what was formerly the presidio of Tubac, and being the same lands and estates that were granted and assured to Jose Antonio Orosco, Don Tomas Ortiz, and Don Ignacio Ortiz, or either of them, by the officers of said Mexican Government and of the State of Sonora, duly authorized to make said grant and assurance, and for a more particular description of the premises

154 hereby conveyed, or intended to be, reference is to be had to the documents, deeds, and other evidences of the titles and interest of the said Jose Antonio, Don Tomas, and Don Ignacio thereto placed in the possession of the said Sopori Land and Mining Company by said grantors.

To have and to hold the aforescribed and aforesdemised premises, all and singular, with the mines and buildings thereon standing and being and all other privileges and appurtenances thereto belonging or in anywise appertaining to the said Sopori Land and Mining Company, their successors and assigns, to their sole use, benefit, and behoof forever.

And we, the said grantors, for ourselves and for each of us and for our respective heirs, executors, and administrators, do hereby covenant, agree, and promise to and with the said corporation, their successors and assigns, that we have good right, full power, and lawful authority to bargain, sell, convey, and transfer the premises aforescribed and demised in manner aforesaid; that the same are free from all incumbrances, and that we will warrant and defend the same to the Sopori Land and Mining Company, their successors and assigns, against the lawful claims and demands of all persons whatsoever claiming by, through, or under us, but against none other.

In testimony whereof we, the aforesaid grantors, have hereto set our hands and seals this second (2nd) day of June, in the year of our Lord one thousand eight hundred and sixty (1860).

SYLVESTER MOWRY, [SEAL.]  
JOAQUIN MARIA ASTIAZARAN, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

MARIA DEL CARMEN TUIGO, [SEAL.]  
*By her Attorney, Sylvester Mowry.*

FERNANDO MARIA ASTIAZARAN, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

MANUEL CUBILLAS, [SEAL.]  
*For his Children, the Heirs of Mrs. Carmen Astiazaran,*  
*By his Attorney, Sylvester Mowry.*

JUAN A. ROBINSON, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

MATIAS ALSUA, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

JOSE CALVO, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

FERNANDO RODRIGUEZ, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

ANTONIO RODRIGUEZ, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

FERNANDO CUBILLAS, [SEAL.]  
*By his Attorney, Sylvester Mowry.*

Signed, sealed, and delivered in presence of—

N. VAN SLYCK.

STEVEN ESSEX.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,  
*Providence, ss:*

In the city and county of Providence, this fifth day of June, A. D. 1860, personally came the within-named Sylvester Mowry, and came also the within Joaquin Maria Astiazaran, and Maria del Carmen Tuigo, and Fernando Maria Astiazaran, and Manuel Cubillas, and Juan A. Robinson, and Matias Alsua, and Jose Calvo, and Fernando Rodriguez, and Antonio Rodriguez, and Fernando Cubillas, by their joint and several attorney, Sylvester Mowry, and severally acknowledge the within instrument by them signed to be their free act and deed.

Before me,

NICHOLAS VAN SLYCK,  
*Justice of the Peace.*

156 UNITED STATES OF AMERICA,  
*State of Rhode Island and Providence Plantations:*

SECRETARY OF STATE'S OFFICE,  
*Providence, May 25, 1880.*

I hereby certify that Nicolas Van Slyck, esquire, before whom the annexed acknowledgements was made, and who has thereunto sub-

scribed his name, was at the time of so doing a justice of the peace of the State of Rhode Island, in and for the city of Providence, and as such authorized by law to take depositions and the acknowledgement of deeds and other instruments, and to administer oaths; that he was duly commissioned, as appears of record, . I furthermore believe that his signature is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of the State aforesaid the day and year above written.

[SEAL.]

JOSHUA M. ADDEMAN,  
*Secretary of State.*

(Endorsements:) No. 16. Quitclaim deed, Sylvester Mowry & others to the Sopori Land and Mining Company, June 2nd, 1860. Recorded in journal, vol. 3, page 175-179. Filed Sur. Gen'l's Office, Arizona, July 17, 1889, 2.30 p. m. J. R. Farrell, chief clerk.

Copied in duplicate & compared. Recorder's office, Tucson, Pima Co., A. T. Filed and recorded at request of E. M. Shepard, June 28, A. D. 1880, at 2.30 p. m., in book 7, deed real estate, pages 173-177. S. W. Carpenter, county recorder. By W. S. Read, deputy.

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OFFICE OF SURVEYOR-GENERAL,  
*Tucson, Arizona, March 27th, 1895.*

I hereby certify that the paper attached hereto is a correct copy of the paper it purports to be a transcript of, on file in this office.

[SEAL.]

LEVI H. MANNING,  
*U. S. Surveyor-General, District of Arizona.*

158 And be it further remembered that thereafter, to wit, on the 20th day of August, 1896, the same being a day of a regular term of the court held at Santa Fe, New Mexico, the following proceedings were had, to wit:

MAISH & DRISCOLL,	}	No. 6. San Ignacio de la Canoa grant.
vs.		
UNITED STATES.		

The above-entitled cause having been argued and submitted at a former day of the court, at Tucson, Arizona, and now coming on for reargument, there appeared Rochester Ford, esq., and George Lines, esq., for the petitioners. After argument by counsel for petitioners, and the United States having filed a brief, the said cause was taken under advisement.

And be it further remembered that thereafter, on August 31st, 1896, the same being a day of the regular term, held at Santa Fe, New Mexico, the court, by Chief Justice Reed, announced its judgment confirming the grant, and the attorneys therein are required to prepare a decree of confirmation in conformity with said judgment and file the same with the clerk of the court.

Said decree was thereafter filed in the office of the clerk and entered of record, and is in the words and figures following, to wit:

159 In the Court of Private Land Claims, sitting in the Territory of Arizona.

FREDERICK MAISH AND THOS. DRISCOLL,  
partners as Maish & Driscoll,

*vs.*

THE UNITED STATES AND THE SOPORI LAND  
and Mining Company (impleaded), defend-  
ants.

This cause having heretofore come on for hearing upon the pleadings and exhibits on file and upon the proofs taken in open court, as well on behalf of the defendants as on behalf of the petitioners, full legal proof having been taken, C. W. Wringht, esq., and Rochester Ford, esq., appearing for petitioners Maish & Driscoll; Hon. Matt. G. Reynolds appearing for defendant the United States, and George Lines, esq., appearing for defendant the Sopori Land and Mining Company, said counsel having been heard for said parties and the petition in this cause having been sustained by satisfactory proofs, after due deliberation, the court, being now sufficiently advised in the premises, makes the following findings of fact:

1. That a grant was made on February 2, 1849, by Antonio Teran y Peralta, substitute treasurer-general of the State of Sonora, in the name of the sovereignty of said State, to Tomas and Ygnacio Ortiz, of a tract of land known as the San Ygnacio de la Canoa; that on Sept. 6, 1820, said Tomas and Ygnacio Ortiz presented to the senior governor intendent of the Spanish province of Sonora their petition asking for the survey and other steps necessary for obtaining title and confirmation of the land mentioned in their said petition; that on May 29, 1821, said Governor Intendent Cordero admitted said petition and ordered the  
160 commanding officer of the company of Tubac to proceed to the survey of the land which said petitioners registered and to take all steps necessary for the sale of said lands; that on July 7, 1821, the said commanding officer accepted said order of said Cordero, and that on said day said officer communicated said order to said Tomas and Ygnacio Ortiz, and that on said day the said officer, in order to proceed to the measurement of the registered land, appointed the necessary surveying officials; that said officials on said date accepted said appointment and took the oath required by law; that on July 9, 1821, the said officer, accompanied by the interested parties, the appointed officials, and customary witnesses, made an inspection and examination of the registered lands; that at the said place of La Canoa (to which the name of San Ygnacio was given) on the 10th day of the month of July, 1821, and the following day the said commanding officer surveyed the land registered by said petitioners, and that on said 11th day of July, 1821, said petitioners were put in possession of said surveyed lands, and, being satisfied with the said survey, were notified that they should continually mark their boundary



lines with monuments of lime and stone as the law demands; that the said commanding officer, in order to have the land appraised and valued which had been surveyed in favor of Tomas and Ygnacio Ortiz, appointed the proper appraisers, who thereupon appraised said land; that at the military post of Tubac on July 12, 1821, the said commanding officers ordered that said sitios should be put up at auction for thirty consecutive days, which was thereupon done; that thereafter, on Aug. 13, 1821, the testimony of three witnesses was taken, showing the capacity to stock the land which had been registered; that on said day the said commanding officers summoned said interested parties to be present at the auction  
 161 and final bidding for of the said lands; that on December 6, 1821, the provisional intendent referred said proceedings to the attorney-general of the treasury for his opinion thereon; that on said day said attorney-general reported that all said proceedings were in accordance with law and advised that the final sale of said lands be made, and that said land was, on the 15th day of Dec., 1821, finally and solemnly sold to said petitioners for the sum of two hundred and fifty dollars, and that on Dec. 17, 1821, the said sum of two hundred and fifty dollars, being the principal amount for which said land was sold, was, by said Tomas and Ygnacio Ortiz, paid into the national treasury of the Mexican Republic and the receipt given therefor, and that the title or grant issued on Feb. 2, 1849, by Antonio Teran y Peralta, as hereinbefore set out, was based upon and was in pursuance and completion of the proceedings and sale of said lands as aforesaid.

2. That the lands so granted and possession of which was so delivered as aforesaid is the tract of land the center point of which is the place then and now known as the San Ygnacio de la Canoa, and being the tract of land embraced within the natural objects and monuments recited and described in the survey of said tract of land as set out in the said grant.

3. That the said tract of land has, from the time of the aforesaid delivery of possession thereof up to the time of the hearing of this cause been possessed by the said grantees and their heirs and legal representatives.

4. That the petitioners and the defendant the Sopori Land and Mining Company are the legal successors in interest to the rights of said original grantees.

The court finds as matter of law that the said delivery of juridical possession and the said sale to said grantees and the said grant to  
 162 them based on said sale and the proceedings hereinabove recited vested in said Ygnacio and Tomas Ortiz a title, which was complete and perfect at the date when the United States acquired sovereignty over the territory where such land is situated, and that the petitioners herein and the defendant the Sopori Land and Mining Company are entitled to a confirmation of their claim as prayed in the amended petition of said petitioners Maish & Driscoll, filed in this court on March 1, 1895, to the heirs and legal representatives of the said Tomas and Ygnacio Ortiz, and this finding and the confirmation in this decree contained are based upon the provisions of the ordinances of intendentes of Dec. 4th, 1786; of the decree of Oct. 5, 1821, of the constituent congress of Mexico; of the order of Oct. 24, 1821, of the constituent congress of Mexico; of the general sovereign decree of the Mexican

Nation of August 4, 1824; of the law number thirty, of May 20, 1825, of the State of Sonora; of the law number twenty-six, of July 11, 1834, of the State of Sonora; of the general law of classification of the Mexican Republic of Sept. 17, 1846; of the provisions of the plan of Iguala and of the treaty of Cordova, and of the other laws of Spain and Mexico applicable thereto.

The court hereby specifies that the said land hereby confirmed is located within the county of Pima, in the Territory of Arizona; that the boundaries thereof are the boundaries and natural landmarks described and recited in the title paper of said grant; but it particularly specifies that the area of said land hereby confirmed is forty-six thousand six hundred and ninety-six and two-tenths acres, according to the map of the survey of said grant made by Y. Bonillas, esq., November, 1893, and that the said area and the aforesaid boundaries and natural landmarks are the ones described in said map, which map is marked "Map San

Ygnacio de la Canoa Private Land Claim, situated in Pima  
163 County, Arizona, surveyed by Y. Bonillas, Nov., 1893," and

being the map offered in evidence by petitioners herein on the trial of this case on April 2 and 3, 1895, and marked "Exhibit B," and that the aforesaid map made by said Bonillas correctly represents the location, area, natural landmarks, and boundaries of said land granted and hereby confirmed, according to the survey and description contained in the title papers of said grant.

It is therefore ordered, adjudged, and decreed by the court that the claim of the petitioners and of the defendant the Sopori Land and Mining Company for the tract of land embraced within the said grant, as designated by the aforesaid map of said Y. Bonillas, be, and the same hereby is, confirmed to the heirs and legal representatives of said Tomas and Ygnacio Ortiz; but the confirmation or allowance of this grant shall not confer any right or title to any gold, silver, or quicksilver mines, or minerals of the same, nor any lands that may have been patented or disposed of by the United States.

By the court.

JOSEPH R. REED,  
*Chief Justice.*

(Endorsed:) In the Court of Private Land Claims. Frederick Maish and Thomas Driscoll vs. The United States and the Sopori Land and Mining Company (impleaded), defendants. Degree of confirmation. Filed and recorded in the office of the clerk, Court of Private Sept. 2, 1896. Jas. H. Reeder, clerk. By R. L. Long, deputy.

164

*Dissenting opinion by Mr. Justice Murray.*

In the U. S. Court of Private Land Claims.

MAISH AND DRISCOLL, PETITIONERS,	} No. 6. Arizona district.
<i>versus</i>	
THE UNITED STATES ET AL., DEFENDANTS.	

(Involving the title to the property included within what is claimed as the "San Ygnacio de la Canoa grant," in the Territory of Arizona.)

Delivered and filed in my office this 30th day of August, 1896.

JAMES H. REEDER, *Clerk.*  
By R. L. LONG, *Dep.*

165 In the Court of Private Land Claims, District of Arizona.

MAISH & DRISCOLL,	} No. 6. San Ygnacio de la Canoa grant, in the Territory of Arizona.
vs.	
THE UNITED STATES.)	

It appears from the papers constituting the expediente, that on the 6th day of September, 1820, Tomas Ortiz and Ygnacio Ortiz, residents of the military post of Tubac, petitioned the then governor intendente of the province of Sonora and Sinaloa for four sitios of land, which they proposed to stock with cattle and horses. Their petition was received at Arispe, capital of the said province, on the 29th of May, 1821. The commanding officer of the company of Tubac was directed by the intendente to take the necessary steps to have the land asked for surveyed and appraised. Without giving each step in detail taken by the officers leading up to a final sale, it is sufficient to say that all the proceedings seem to be in strict conformity with the general practice in such cases at that time.

On the 17th of December, 1821, the final sale was made to the petitioners and the purchase money paid.

On the 30th day of January, 1849, the expediente was presented to the treasury general of the State of Sonora, and the grant was made by him, on the second day of February, 1849.

Counsel for petitioners insist that the claim in this case should be confirmed, if not as a complete and perfect grant, as an imperfect or equitable one.

166 1st. Because all grants instituted prior to the independence of Mexico were carried out and final title issued thereon; and that the proceedings after independence were carried on by the intendents up to the creation of the office of commissary-general until May, 1825, when the law of the State of Sonora for the sale of its lands was passed; that they were then carried on by the State officials till the State was abolished and departments created by the law of October 3rd, 1835; that sales were then carried on by the department officials under the central system until it was abolished by the law of August 22nd, 1846, and that sales were carried on after that time by the States until they were again abolished in 1853.

2nd. Because all grants instituted after independence before intendents, subdelegates, and others, were carried on and final title issued thereon in the same way and by the same officials during the respective periods when they were in office, to wit, first by the commissary-general, afterwards by the State officials, afterwards by the Departments, and afterwards by the State officials again.

3rd. Because the treasurer-general of the State of Sonora, after the passage of the law of May 20th, 1825, made grants and issued final titles until the State was abolished.

4th. Because grants instituted under the States and which had not been completed when the States were abolished were carried on and final title issued thereon by the department officials.

5th. Because in the same manner grants which were instituted under the departments and which had not been completed when the central

system was abolished were carried on and final title thereon issued by the State officials.

6th. Because after independence the intendants were the granting officers up to the creation of the office of commissary-general; that  
 167 the commissary-general then exercised up to, and, in a few cases  
 for a short time after, the passage of the law of Sonora of May  
 20th, 1825, of the same powers in every respect which had been exercised by the intendants.

It is further insisted that if the treasurer-general of the State of Sonora had no power to make the grant, that the survey and appraisement of the land in 1820 and the final sale by the intendent in December, 1821, and payment of the purchase money, constituted an equitable claim that should be confirmed under the provisions of section 6 of the act of March 3rd, 1891.

Counsel further insists that having shown the recognition by officials of the Empire, and the Republic, of Mexico of expedientes and grants similar to the one in this case, that this claim falls within the decision of this court in the case of Tomas Torres et al. vs. The United States, and should be confirmed.

It is further insisted that it being the duty of the governor of Sonora to report to the Mexican Congress all decrees and orders of the congress of the State, that the court should presume that the law of May 20, 1825, was brought to the knowledge of the Government and ratified by it.

A summary or classification of expedientes existing at Hermosillo, State of Sonora, from an official catalogue of expedientes issued by the State, is filed as evidence, which catalogue seems to sustain the contention of counsel to the extent of showing that grants had been issued on the expedientes set out in said catalogue at the time and by the officials therein mentioned.

I will examine briefly the several positions assumed by counsel.

In the case of Tomas Torres et als. vs. The United States a petition was filed asking for a confirmation of what is known as the "Rancho  
 168 del Rio Grande Grant," made by the governor of the province of New Mexico to a number of persons in the year 1795. It appeared from archive evidence that early in February, 1837, sundry citizens petitioned the governor of New Mexico for a grant to the lands which had been granted in 1795. The governor referred the petition of 1837 to the town council of Toas, with instruction to investigate the matter and to report whether or not the land should be granted. The town council, after investigating as required by the governor, reported to him that the land ought not to be granted, for the reason that it had been granted to a number of citizens in 1795, and that the grantees and their heirs had been in possession from the date of the grant. The governor refused to grant the land for the reason stated in the report of the town council. It was made the duty of the governors of the Territories, by the provisions of the regulations of November 21, 1828, to take the necessary steps to determine whether or not the land petitioned for should be granted. The court held in the case referred to that the decision of the governor, based on the facts presented to him, was binding on the Mexican Government and equally binding on the United States.

There is no such question presented in this case. It has not been decided by any official of the Mexican Government authorized to bind it, that the expediente in this case confers any rights on the grantees, either legal or equitable. The sale was made by an intendent and the purchase money paid after the independence of Mexico. This court held in the case of the United States vs. Santiago Ainsa, administrator, et als., that the intendents, after the independence of Mexico, had no power to sell or convey public land belonging to the Empire, and that sales made by them, or purchase money paid for land so sold, was not binding on the Mexican Government. I am satisfied that the intendent, 169 after the independence of Mexico, had no power to sell lands, for the reasons stated in the opinion of the court in that case, and for the additional reason that the resolution of the council of "the Indies" of December 23rd, 1818, which was signed by the King, declared that all business pertaining to the alienation of the lands in New Spain should belong to the department of the treasury of the Indies at Madrid. (Hall's Mexican Law, p. 76.) That resolution repealed all prior laws which conferred power or authority on the intendents to make grants to public lands in New Spain. It is a rule of civil law that a posterior repeals all prior laws in conflict with it. (Schmidt, Civil Law of Spain and Mexico, p. 100; Elements of the Spanish Law, by Eschrsche, translated by Bethel Lockwood in 1886, pp. 10, 11.)

By the royal ordinance of December 4th, 1786, dividing the Empire into twelve intendentes, the intendents were the principal officers in the provinces. Article 7 provides "that the intendents should have charge of the four branches, or subjects, of justice, police, treasury, and war, giving them for that purpose all necessary jurisdiction and powers. In matters relating to the treasury and war they were superior to the viceroy and commandant-general. They were subordinant to the viceroy in matters relating to the justice and police in ten provinces and to commandant-general in the other two." Art. 81 gave them power to sell and make grants of royal lands subject to the approval of the superior junta de hacienda. (Vide, 2 White Recop., p. 69.)

It will be observed that the resolution of the council of the Indies before referred to did not in any way affect the powers conferred on the intendents by article 7 of said ordinance of 1786, but only repealed 170 article 81, which is in conflict with its provisions.

The intendents having no power or authority to sell or make grants of royal lands for some time prior to the independence of Mexico, it is clear that the decree of October 5th, 1821, which habilitated and confirmed all authorities as they were for the purpose of legalizing the exercise of their respective function, and the order of October 24, 1821, providing that in matters relating to the treasury "the directors-general of the revenue, the officers of the treasury, and intendents, in cases and matters that severally belonged to them, in conformity with their ordinances without any variation in them; consulting the regency or the Sovereign Council (Junta) in those things or matters within their attributes, the determination of which may not be within the powers of said officers or offices," have no reference to the sale or disposition of the public lands belonging to the Empire of Mexico. (Flipper, pp. 39-39a.)

The evidence shows that sales of land made by intendents before and after independence were recognized by the Mexican Government and



final title issued to purchasers. The Republic of Mexico had an undoubted right to deal with its citizens in these matters as it saw fit, and to issue final title to purchaser without reference to the authority of the officers initiating the proceedings or making the sales; and if this court had the power conferred on the commission, and district and Supreme Courts of the United States by the act of March 3rd, 1851, there would be much force in the contention of counsel, that equities recognized by the usages and customs of Mexico should govern this court in similar cases presented to it for confirmation. But such is not the case. Section 11 of the act of 1851 is as follows: "That the commission herein provided for and the district and Supreme Courts, in  
171 deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the Treaty of Guadalupe Hidalgo, the law of nations, the laws, usages, and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable." (9 Stats. at. L., p. 633.)

Subdivision 1 of section 13 of the act creating this court is as follows:

"First. No claim shall be allowed that shall not appear to be upon a title lawfully and regularly derived from the Government of Spain or Mexico, or from any of the States of the Republic of Mexico having lawful authority to make grants of land, and one that if not then complete and perfect at the date of the acquisition of the territory by the United States, the claimant would have had a lawful right to make perfect had the territory not been acquired by the United States, and that the United States are bound, upon the principles of public law, or by the provisions of the Treaty of Cession to respect and permit to become complete and perfect if the same was not at said date already complete and perfect."

The words "usages and customs" and "the principles of equity" in the act of 1851 are not in the act of March 3rd, 1891, and it is fair to presume that they were left out intentionally by Congress. It is certainly clear that this court cannot look to the "usages and customs" of the government from which any claim is derived without disregarding the plain provisions of the statute. This court is not authorized to presume that the State of Sonora had power to make grants of land, or that the law of May 20, 1825, had been ratified by the government. No claim can be allowed unless it shall appear to be upon a title not only lawfully but regularly made by the Government of Spain or Mexico, or from the States of Mexico having lawful authority to make grants of land. It must appear that the claimant could have gone into the courts of the former governments and asked as a matter of right (not mere grace or favor) that his claim be made perfect, if the United  
172 States had not acquired the territory.

The decisions of the Supreme Court of the United States relied on by counsel were made under the act of March 3rd, 1851, and have no application. In the case of the United States vs. Peralta, 19 Howard, p. 343, the learned judge who delivered the opinion of the court used the following language:

"The order of Michaletorena, in 1844, for the granting of a new title to Peralta, is itself evidence of the usage and custom, and that the acts of Sola and Arguello were considered valid, and that the title, whether legal



or equitable, conferred on them should be respected and confirmed by the Government." The decision in the case of *Arguello v. U. S.*, 18 How., p. 540, is approved.

And, again, in the case of the *United States vs. Auguisola*, 1 Wallace, p. 352, Mr. Justice Field said: "They have directed their tribunals, in passing upon the rights upon the inhabitants, to be governed by the stipulations of the treaty, the law of nations, the laws, usages, and customs of the former government, the principles of equity, and the decision of the Supreme Court, so far as they are applicable."

It is clear that these decisions of the Supreme Court are based on the words "usages, customs, and principles of equity" in the act of 1851.

The contention of counsel that the court should presume that the law of Sonora passed May 20th, 1825, had been ratified by the Government of Mexico is not sustained by the case of *Clinton vs. Englebrecht*, 13 Wallace, p. 434. There was no such question before the court in that case. It is true the learned judge who delivered the opinion said "it

would not be unreasonable to presume that the jury laws of the 173 Territory of Utah had been ratified by Congress," but expressly stated that the question was not in the case. It was the duty of

the governors of the several departments of Mexico during the existence of the central system to report to Congress all the orders and decrees made by the departmental assemblies. Yet the Supreme Court of the United States, in the case of *Vigil*, 13 Wallace, page 450, held that a grant made by the departmental assembly of New Mexico in 1844 was void for want of power in that body to make it. The court in that case followed the well-settled rule that a grant made by one without lawful authority to make it, it is void in all governments. (*Polk's Lessee v. Wendell*, 9 Cranch, 745; *U. S. v. Carey Jones, Id.*, 766.)

It is claimed that the law of August 4, 1824, for the classification of the revenues of the Government and the States, gave to the States all the public land for the purpose of enabling them to raise revenue from that source, and that the law passed by the Congress of Sonora on May 20, 1825, authorizing the treasurer-general to sell lands, was carrying out the authority conferred on the States by said law. Whatever may have been the effect of the law of August 4, 1824, as to the public land in the States, I do not see how it could affect lands which had been sold and paid for prior to the creation of the States. In such cases, where final title had not been issued, the legal title was certainly in the General Government as trustee for the equitable owner, and would not have passed to the States under the provisions of a revenue law. The court will not presume that under the provisions of such a law the Republic of Mexico intended to transfer to the States the equities of its citizens to land acquired under a former government. It will, however, be seen from an examination of the law of May 20, 1825, that it did not confer the power

on the treasurer-general to make grants to land that had been 174 registered and surveyed, but final title had not been issued.

Articles 19 and 23 of the law of May 20, 1825, are as follows:

"The treasurer as the immediate chief of the revenue shall make the sales and give the titles. The treasurer shall endeavor, by all means in his power, to satisfy himself of the truth before making the grant which

the preceding articles provide for, and the party in interest shall take no part in the steps he may take to secure that end." (Flipper, p. 62.)

It will be seen that the preceding articles contain no reference to land not subject to sale by the treasurer-general.

Articles 27 and 28 are as follows:

"Art. 27. Those who possess sitios and who, although they have them registered and surveyed, have not obtained the title, shall present themselves to the treasury-general and shall state in writing the causes of their failure, the deputy or judge who made the survey for them and the payments they made.

"Art. 28. The treasurer shall fix for this purpose the time that seems to him proper, and as soon as he gets all the information together, shall render a report to the Government, which shall order the proper steps taken, with regard to the rights of the parties in interest and those of the treasury." (Flipper, p. 65.)

It was the plain duty of the treasurer-general in cases falling within the provisions of articles 27 and 28 to report all the facts to the Government; so that the Government (not the treasury-general) may take the proper steps with regard to the rights of the parties in interest and the treasury.

But it is useless to pursue this question further. The law of August 4, 1824, was not in force at the date of this grant. Whatever power or authority the State of Sonora had (if any) to dispose of the public land by virtue of that law, had been repealed by the decree of September 17, 1846, which again classified the revenues of the General Government and the States.

The States were rehabilitated by decree of August 22, 1846. (Compiled Laws, Vol. V, p. 135, No. 2893, Flipper, p. 142.)

In the classification of revenue belonging to the Federation, the public lands were reserved to it. Article 3 of said decree is as follows: "The proceeds from the sale of free lands which the law assigns to the Federation." There is no provision in this law classifying the revenues of the States, which authorized the treasurer-general of the State of Sonora to make a grant of lands.

By a decree of November 27, 1846, a bureau of colonization was established in conformity with the provisions of articles of the law of June 1, 1839, which law was passed to carry out the colonization law of April 4, 1837. On the 4th of December, 1846, a general colonization law was decreed, which provided for the sale of all the public lands under the direction of the bureau created November 27, 1846. (See Code of Colonization of Public Lands Mexico, Government Printing Office, 1893, No. 120, p. 347, Flipper, p. 149.)

On December 4, 1846, regulations were issued to all the governors of the States, recommending exact compliance with the decree issued for the establishment of the bureau of colonization. (10 Code, p. 360, Flipper, p. 165.)

In the regulations referred to the reasons for reducing the price of public lands below 10 reales per acre (price fixed by the colonization law of April 4 of 1837) is given, and among other things in relation to public land is the following:

"The Government has believed it ought to leave to Congress to decree certain transcendental points, such as those relating to the internal gov-

ernment of the colonies, the formation of the States composed  
 176 thereof, and the religion of those where the inhabitants are not  
 Catholics, and also reserved to Congress the decision of cardinal  
 points as to whether the matter of colonization should remain reserved to  
 the federal power as absolutely necessary, that it be carried out under  
 uniform rules, and that it have the most complete effect, applying, never-  
 theless, to the States a part of the proceeds from the public land sold,  
 and another to the redemption of the public debt. \* \* \*

It will be noticed that the federation is asserting its rights to control  
 the sale of the public lands in the State for the purpose of colonization to  
 the same extent that it asserted its right to compel the States to colonize  
 by donation under the provisions of the law of August 18th, 1824. The  
 decree of September 17, 1846, reenacted article 3 of the law of September  
 21, 1824, which made it the duty of the commissary-general to collect in  
 the States the revenue belonging to the Republic.

Article 20 of said decree is as follows:

"These shall be continued in the States and Territories for the present,  
 the payments that are being made by order of the General Government in  
 the offices of the revenues assigned by the present decree to said States,  
 and said payments being charged to the contingent account, and for what  
 they are found to owe the federation by burdens they were heretofore  
 carrying."

It will be observed that the provisions of this decree the revenue  
 officers of the General Government were not only to collect the revenue  
 belonging to it in the States, but also the revenue which had been assigned  
 to the States under the classification of revenue that had formerly been  
 imposed by the General Government during the existence of the central  
 system. If the survey, sale, and payment of the purchase money in 1820  
 and 1821 constituted an equity against the Republic of Mexico, the court  
 must presume under the facts in this case that it has been abandoned.  
 The application in 1849 was not made to an officer who had any power or  
 authority under the law to make the grant, and the case stands on no higher  
 ground than it would if presented to the court as an equitable claim  
 177 based on the sale and purchase and payment of the purchase money,  
 so the case falls within the rule laid down by the Supreme Court of the  
 United States in the case of United States versus Boisdore, 11 Howard,  
 page 63. There is no evidence tending to show possession prior to 1843,  
 and no reason given for such delay. The evidence of possession at any  
 time is meagre and unsatisfactory. There is no evidence of title in peti-  
 tioners derived from one of the grantees, Ignatio Ortiz. The conveyances  
 purporting to be executed by his heirs is not sufficient. The recitals to  
 that effect in the deed furnish no evidence of the fact of heirship. (See  
 United States versus Hughes, 13 Howard, page 6.) The grant is not  
 located as required by article six of the treaty of 1853, which is as fol-  
 lows:

"No grants of land within the territory ceded by the first article of this  
 treaty bearing date subsequent to the day—twenty-fifth of September—  
 when the minister and subscriber to this treaty on the part of the United  
 States proposed to the Government of Mexico to terminate the question  
 of boundary, will be considered valid or recognized by the United States,

or will any grants made previously be respected or be considered as obligatory which have not been located and duly recorded in the archives of Mexico."

(See Treaties and Conventions between the U. S. and other powers, 1776, 1887.)

This is clearly a grant by quantity and not by metes and bounds. There was four sitios petitioned for and only four sitios sold, while the boundaries called for in the grant include more than ten sitios. Four sitios can not be located by a surveyor from the natural objects called for in the grant. A grant is not located within the meaning of the treaty where the lands so granted can not be found and identified by the boundaries called for in the grant. If land sold and paid for in 1821 and 1822, but no final title has been issued, was public land, the grant is declared void by decree of November 25th, 1853, article two of which is as follows:

178 "Consequently it is declared that all sales, concessions, or any other class of alienations of public lands that have been made without the express order and approval of the general power in the manner prescribed by law, are null and of no value or effect." (Comp. Laws, Vol. VI, p. 776, No. 4118.)

It follows that in my opinion the claim should be rejected and the petition dismissed.

WM. W. MURRAY.

(Endorsed:) Canoa, dissenting opinion of Justice Murray, filed August 30, '96. James H. Reeder, clerk. By R. L. Long, dep.

179 And be it further remembered that thereafter an appeal and allowance thereof, together with a citation, were filed in the office of the clerk, which said appeal and allowance and citation are as follows, to wit:

*Appeal and allowance.*

Court of Private Land Claims.

UNITED STATES OF AMERICA, ss:

FREDERICK MAISH AND THOMAS DRISCOLL, PART-  
ners as Maish & Driscoll, plaintiff and appellee,

vs.

THE UNITED STATES, DEFENDANT AND APPELLANT.

The above-named defendant, the United States, considering itself aggrieved by the decree entered on the 31st of August, 1896, in the above-entitled proceeding, doth hereby appeal from said decree to the Supreme Court of the United States, and it prays that this appeal be allowed, and that a transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States.

The said defendant shows to the court here that the statement by the United States attorney to the Attorney-General required by sec. 9 of the

act of Congress establishing this court, approved March 3, 1891, was not made in said cause within sixty days after the rendition of judgment therein, but was made on                      , 189 .

MATT G. REYNOLDS,  
*U. S. Attorney for Defendant and Appellant.*

And now, to wit, on December 1st, 1896, it appearing to the satisfaction of the court that the statement required to be made by the U. S. attorney to the Attorney-General by sec. 9 of the act of Congress establishing this court, was not made within sixty days after the rendition of the judgment therein, but was made on, to wit, the       day of       , 189 :

It is ordered that an appeal be and hereby is now allowed as prayed for.

JOSEPH R. REED,  
*Chief Justice.*

Filed in the office of the clerk, Court of Private Land Claims.  
December 3rd, 1886. Jas. H. Reeder, clerk. By R. L. Long, deputy.

180

*Citation on appeal to Supreme Court.*

UNITED STATES OF AMERICA, ss:

The President of the United States to Frederick Maish and Thomas Driscoll, partners as Maish & Driscoll, or Rochester Ford, their attorney of record, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, to wit: Sixty days from and after the date of this citation, pursuant to an appeal filed in the office of the clerk of the Court of Private Land Claims, wherein the United States is appellant and you are appellee, to show cause, if any there be, why decree rendered against the said appellant, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 1st day of December, in the year of our Lord one thousand eight hundred and ninety-six.

JOSEPH R. REED,  
*Chief Justice, Court of Private Land Claims.*

On this       day of       , 189 , personally appeared before the subscriber,       and makes oath that he delivered a true copy of the above citation to       .

Subscribed and sworn to before me this       day of       , 189 .

I hereby acknowledge service of the foregoing citation for and on behalf of the plaintiffs and appellees, this 3rd day of December, 1896.

ROCHESTER FORD,  
*Attorney for Appellee.*

Filed in the office of the clerk, Court of Private Land Claims, December 4th, 1896, Jas. H. Reeder, clerk, by R. L. Long, deputy.

UNITED STATES OF AMERICA,

*Territory of Arizona, ss:*

I, James H. Reeder, clerk of the Court of Private Land Claims, do hereby certify that the foregoing is a full, true, and correct transcript of the record, proceedings had, evidence introduced, and judgment entered in the case, entitled Maish & Driscoll vs. United States, No. 6, San Ignacio de la Canoa grant, as the same appears in the records of my office.

Given under my hand and the seal of the said court this second day of January, A. D. 1897.

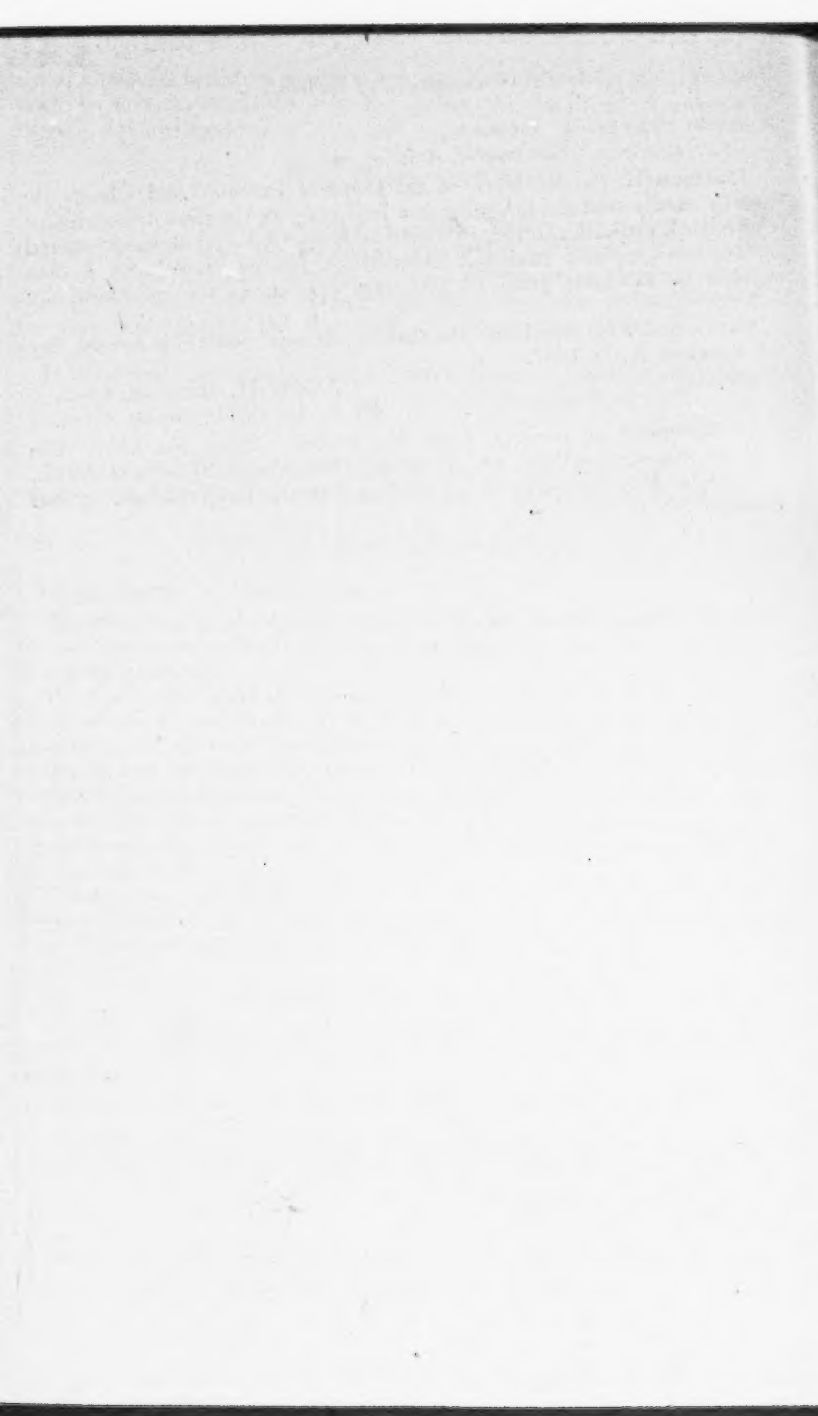
[SEAL.]

JAMES H. REEDER, *Clerk,*By R. L. LONG, *Deputy Clerk.*

(Indorsement on cover:) Case No. 16,481. Term No. 297. The United States, appellant, vs. Frederick Maish and Thomas Driscoll, partners as Maish & Driscoll. Court of Private Land Claims. Filed January 30, 1897.

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1897.

No. 297.

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THE UNITED STATES, APPELLANT, vs. FREDERICK  
MAISH AND THOMAS DRISCOLL, PARTNERS AS MAISH  
AND DRISCOLL.

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1

STIPULATION.

It is hereby stipulated that the following affidavits of Encarnacion Ortiz and Nasario Ortiz may be printed and taken as part of the record in this case, and that said affidavits may be received on the argument of this case in the Supreme Court of the United States with as full force and effect as if said affiants and each of them had personally testified under oath to said statements on the trial of said case, said affidavits being received according to the terms of this stipulation instead of the oral testimony of each of said affiants.

MATT. G. REYNOLDS,  
*Special Asst. to the Attorney-General for United States.*

ROCHESTER FORD,  
*Of Counsel for Appellees.*

2

In the Supreme Court of the United States.

THE UNITED STATES, APPELLANT, <i>vs.</i> FREDERICK MAISH AND THOMAS DRISCOLL, partners as Maish & Driscoll.	}	Appeal from the Court of Private Land Claims.
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TERRITORY OF ARIZONA,  
*County of Pima, ss:*

Incarnacion Ortiz, being duly sworn according to law, makes oath and says that she was born in Altar, Sonora, Mexico, and that she is about sixty-nine years of age; that she knew Tomas and Ignacio Ortiz in their lifetime; that they were uncles of her father; that she has very many times been in the house of Ignacio Ortiz, and knew him and his family intimately; that he lived at Tubac, Arizona Territory, and is now dead, having died prior to August, 1883; that the name of the wife of said

Ignacio Ortiz was Francisca, and that by her he had three children, two daughters, Anna Maria and Anna Joaquina, and one boy, Ignacio; that Anna Joaquina married Joseph M. Yancey, and is now living in the State of California; that Anna Maria died in 1895; that Ignacio was never married and that he is now residing in the Territory of Arizona; that said Ignacio Ortiz had a son, Narsizo Martinez, and a daughter, Mariana Ortiz de Martinez, by another woman than said Francisca, and that the above-named three daughters and two sons were all the children that said Ignacio Ortiz had; and further deponent sayeth not.

ENCARNACION ORTIZ.

Subscribed and sworn to before me this 26th day of January, 1897.

[SEAL.]

WILLIAM J. ROSS,  
*Notary Public.*

TERRITORY OF ARIZONA,  
*County of Pima, ss:*

Nasario Ortiz, being duly sworn according to law, makes oath and says that he was born in Tubac, Arizona, and that he is over eighty years of age; that he was raised in Altar, Sonora, Mexico, where he lived till about the year 1832, when he removed to the State of California, where he lived for about ten years, when he returned to the Territory of Arizona, where he has resided ever since; that he very well knew Tomas and Ignacio Ortiz; that they were his cousins; that Ignacio Ortiz had a son, Ignacio, who is still alive, and had a daughter, Anna Joaquina, who married Joseph M. Yancey, and a daughter, Anna Maria; that said Ignacio Ortiz, the father, was killed by the Papago Indians prior to August, 1883; that this deponent has many times been in the house of said Ignacio Ortiz, and knew his family; that in addition to the children above named he had a son, Narsizo Martinez, and a daughter, Mariana Ortiz de Martinez, who were children of a wife to whom he was not married by the Catholic Church, and that these were all the children of said Ignacio Ortiz; and further deponent sayeth not.

NASARIO (his x mark) ORTIZ.

Witness to signature:

A. L. COX.

Subscribed and sworn to before me this 26th day of January, 1897.

[SEAL.]

WILLIAM J. ROSS,  
*Notary Public.*

3 (Indorsed on cover:) Case No. 16481. Supreme Court U. S. October term, 1897. Term No., 297. The United States, appt., vs. Frederick Maish and Thomas Driscoll. Stipulation for addition to record of affidavits of Encarnacion and Nasario Ortiz. Office Supreme Court U. S. Filed Sep. 23, 1897. James H. McKenney, clerk.